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AGENCIES



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Editors Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 16, 2006 to January 2, 2007 by noon as January 1, 2007 is a holiday and the office is closed.

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2006

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 27, 2005	January 6, 2006
2	January 3, 2006	January 13, 2006
3	January 9, 2006	January 20, 2006
4	January 17, 2006	January 27, 2006
5	January 23, 2006	February 3, 2006
6	January 30, 2006	February 10, 2006
7	February 6, 2006	February 17, 2006
8	February 14, 2006	February 24, 2006
9	February 21, 2006	March 3, 2006
10	February 27, 2006	March 10, 2006
11	March 6, 2006	March 17, 2006
12	March 13, 2006	March 24, 2006
13	March 20, 2006	March 31, 2006
14	March 27, 2006	April 7, 2006
15	April 3, 2006	April 14, 2006
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28	July 3, 2006	July 14, 2006
29	July 10, 2006	July 21, 2006
30	July 17, 2006	July 28, 2006
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32	July 31, 2006	August 11, 2006
33	August 7, 2006	August 18, 2006
34	August 14, 2006	August 25, 2006
35	August 21, 2006	September 1, 2006
36	August 28, 2006	September 8, 2006
37	September 5, 2006	September 15, 2006
38	September 11, 2006	September 22, 2006
39	September 18, 2006	September 29, 2006
40	September 25, 2006	October 6, 2006
41	October 2, 2006	October 13, 2006
42	October 10, 2006	October 20, 2006
43	October 16, 2006	October 27, 2006

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
44	October 23, 2006	November 3, 2006
45	October 30, 2006	November 13, 2006
46	November 6, 2006	November 17, 2006
47	November 13, 2006	November 27, 2006
48	November 20, 2006	December 1, 2006
49	November 27, 2006	December 8, 2006
50	December 4, 2006	December 15, 2006
51	December 11, 2006	December 22, 2006
52	December 18, 2006	December 29, 2006

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Long Term Care Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 153
- 3) Section Number: 153.125 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: This rulemaking provides that facilities that are federally-defined Institutions for Mental Disease (IMD) shall receive a socio-development component rate equal to 6.6% of the nursing component rate that was in effect on 1/1/06. That new socio-development rate component shall then become a part of the facility's nursing component of the Medicaid rate. While this rate may be adjusted by the Department, it shall not be reduced.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes; 30 Ill. Reg. 11853; July 7, 2006.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) 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:

Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

Springfield IL 62763-0002

217/557-7157

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.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Mental health facilities
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: it was not anticipated by the Department when the most recent regulatory agendas were published.

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 153

LONG TERM CARE REIMBURSEMENT CHANGES

Section

153.100	Reimbursement for Long Term Care Services
153.125	Long Term Care Facility Rate Adjustments
153.150	Quality Assurance Review (Repealed)

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

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16285, effective August 28, 1998; amended at 22 Ill. Reg. 19872, effective October 30, 1998; emergency amendment at 23 Ill. Reg. 8229, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12794, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13638, effective November 1, 1999; emergency amendment at 24 Ill. Reg. 10421, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15071, effective October 1, 2000; emergency amendment at 25 Ill. Reg. 8867, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14952, effective November 1, 2001; emergency amendment at 26 Ill. Reg. 6003, effective April 11, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 12791, effective August 9, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11087, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17817, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 11088, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18880, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 10218, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a

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NOTICE OF PROPOSED AMENDMENT

maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005; amended at 29 Ill. Reg. 12452, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 616, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified pursuant to Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 7817, effective April 7, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10417, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11853, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14315, effective August 18, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 153.125 Long Term Care Facility Rate Adjustments

- a) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates established on July 1, 1996 shall be increased by 6.8 percent for services provided on or after January 1, 1997.
- b) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1998, for services provided on or after that date, shall be increased by three percent. For nursing facilities (SNF/ICF) only, \$1.10 shall also be added to the nursing component of the rate.
- c) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1999, for services provided on or after that date, shall include:
 - 1) an increase of 1.6 percent for SNF/ICF, ICF/MR and developmental training rates;
 - 2) an additional increase of \$3.00 per resident day for ICF/MR rates; and
 - 3) an increase of \$10.02 per person, per month for developmental training rates.
- d) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF rates shall be increased by \$4.00 per resident day for services provided on or after October 1, 1999.
- e) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF, ICF/MR and developmental training rates shall be increased 2.5 percent per resident day

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for services provided on or after July 1, 2000.

- f) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2001, shall be computed using the most recent cost reports on file with the Department no later than April 1, 2000, updated for inflation to January 1, 2001.
- 1) The Uniform Building Value shall be as defined in 89 Ill. Adm. Code 140.570(b)(10), except that, as of July 1, 2001, the definition of current year is the year 2000.
 - 2) The real estate tax bill that was due to be paid in 1999 by the nursing facility shall be used in determination of the capital component of the rate. The real estate tax component shall be removed from the capital rate if the facility's status changes so as to be exempt from assessment to pay real estate taxes.
 - 3) For rates effective July 1, 2001, only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.
 - 4) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under Section 153.125(f) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.
- g) Notwithstanding the provisions set forth in Section 153.100, intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled nursing facilities for persons under 22 years of age (SNF/Ped), shall receive an increase in rates for residential services equal to a statewide average of 7.85 percent. Residential rates taking effect March 1, 2001, for services provided on or after that date, shall include an increase of 11.01 percent to the residential program rate component and an increase of 3.33 percent to the residential support rate component, each of which shall be adjusted by the geographical area adjuster, as defined by the Department of Human Services (DHS).
- h) For developmental training services provided on or after March 1, 2001, for residents of long term care facilities, rates shall include an increase of 9.05 percent and rates shall be adjusted by the geographical area adjuster, as defined by DHS.

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- i) Notwithstanding the provisions set forth in Section 153.100, daily rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 2.247 percent for services provided during the period beginning on April 11, 2002, and ending on June 30, 2002.
- j) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2002, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be reduced to the level of the rates in effect on April 10, 2002.
- k) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2002 will be 5.9 percent less than the rates in effect on June 30, 2002.
- l) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2003, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3.59 percent.
- m) Notwithstanding the provisions set forth in Section 153.100, developmental training rates effective on July 1, 2003, shall be increased by 4 percent.
- n) Notwithstanding the provisions set forth in Section 153.100, pending the approvals described in this subsection (n), nursing facility (SNF/ICF) rates effective July 1, 2004 shall be 3.0 percent greater than the rates in effect on June 30, 2004. The increase is contingent on approval of both the payment methodologies required under Article 5A-12 of the Public Aid Code [305 ILCS 5/5A-12] and the waiver granted under 42 CFR 433.68.
- o) Notwithstanding the provisions set forth in Section 153.100, the "Original Building Base Cost" for nursing facilities (SNF/ICF) which have been rented continuously from an unrelated party since prior to January 1, 1978, effective on July 1, 2004, shall be added to the capital rate calculation using the most recent cost reports on file with the Department no later than June 30, 2004. The "Original Building Base Cost" as defined in 89 Ill. Adm. Code 140.570 shall be calculated from the original lease information that is presently on file with the Department. This original lease information will be used to capitalize the oldest

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

available lease payment from the unrelated party lease that has been in effect since prior to January 1, 1978, and continued to be in effect on December 31, 1999. Before the lease payment is capitalized, a 15 percent portion will be removed from the oldest available lease payment for movable equipment costs. After the lease payment is capitalized, a portion of the capitalized amount will be removed for land cost. The land cost portion is 4.88 percent. The remaining amount will be the facility's building cost. The construction/acquisition year for the building will be the date the pre-1978 lease began. The allowable cost of subsequent improvements to the building will be included in the original building base cost. The original building base cost will not change due to sales or leases of the facility after January 1, 1978.

- p) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on January 1, 2005 will be 3.0 percent more than the rates in effect on December 31, 2004.
- q) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates shall be increased by the difference between a facility's per diem property, liability and malpractice insurance costs as reported in the cost report that was filed with the Department and used to establish rates effective July 1, 2001, and those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations.
- r) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on January 1, 2006 for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3 percent.
- s) Notwithstanding the provisions set forth in Section 153.100, developmental training rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), effective on January 1, 2006 shall be increased by 3 percent.
- t) Notwithstanding the provisions set forth in Section 153.100, for facilities that are federally defined as Institutions for Mental Disease (see Section 145.30), a socio-development component rate equal to 6.6% of the nursing component rate as of January 1, 2006 shall be established and paid effective July 1, 2006. This rate shall become a part of the facility's nursing component of the Medicaid rate. While this rate may be adjusted by the Department, the rate shall not be reduced.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medicaid Community Mental Health Services Program
- 2) Code Citation: 59 Ill. Adm. Code 132
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
132.10	Amend
132.25	Amend
132.30	Amend
132.42	Amend
132.44	Amend
132.45	Amend
132.50	Amend
132.55	Amend
132.60	Amend
132.70	Amend
132.80	Amend
132.85	Amend
132.90	Amend
132.91	Amend
132.95	Amend
132.100	Amend
132.145	Amend
132.148	Amend
132.150	Amend
132.165	Amend
- 4) Statutory Authority: Implementing and authorized by the Community Services Act [405 ILCS 30] and Section 15.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.3].
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking will clarify and improve the State's compliance with Medicaid requirements and provide clearer service definitions for Assertive Community Treatment and Psychosocial Rehabilitation. Community Support, which emphasizes recovery services in natural settings, has been added as a new service. This rulemaking also requires that a mental health assessment be done within 30 days after the first face-to-face contact and that there be clinical supervision for all non-licensed staff that provide Part 132 services.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None

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NOTICE OF PROPOSED AMENDMENTS

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

(217) 785-9772

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Providers of mental health program services
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: July 2006

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 59: MENTAL HEALTH
CHAPTER IV: DEPARTMENT OF HUMAN SERVICESPART 132
MEDICAID COMMUNITY MENTAL
HEALTH SERVICES PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	Purpose
132.10	Purpose
132.15	Incorporation by Reference
132.20	Clients' Rights and Confidentiality (Repealed)
132.25	Definitions
132.30	Application, Certification and Recertification Processes
132.35	Recertification and Reviews (Repealed)
132.40	Certification for Additional Medicaid Community Mental Health Services and/or New Site(s) (Repealed)
132.42	Post-Payment Review
132.44	Appeal of Post-Payment Review Findings
132.45	Compliance with Certification Requirements
132.50	Revocation of Certification
132.55	Appeal of Certification Decisions
132.60	Rate Setting

SUBPART B: PROVIDER ADMINISTRATIVE REQUIREMENTS

Section	Purpose
132.65	Organizational Requirements
132.70	Personnel and Administrative Recordkeeping
132.75	Program Evaluation (Repealed)
132.80	Fiscal Requirements
132.85	Recordkeeping
132.90	Provider Sites
132.91	Accreditation
132.95	Utilization Review
132.100	Clinical Records
132.105	Continuity and Coordination of Services (Repealed)
132.110	Availability of Services (Repealed)
132.115	Provisions (Repealed)

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- 132.120 Service Needs Evaluation (Repealed)
- 132.125 Treatment Plan Development and Modification (Repealed)
- 132.130 Psychiatric Treatment (Repealed)
- 132.135 Crisis Intervention (Repealed)
- 132.140 Day Treatment

SUBPART C: MENTAL HEALTH SERVICES

Section

- 132.142 Clients' Rights
 - 132.145 General Provisions
 - 132.148 Evaluation and Planning
 - 132.150 Mental Health Services
 - 132.155 Family Intervention, Stabilization and Reunification Services (Repealed)
 - 132.160 Provisions (Repealed)
 - 132.165 Mental Health Case Management Services
 - 132.170 Rehabilitative Case Management Services (Repealed)
- 132.APPENDIX A Medicaid Community Mental Health Services Application Components (Repealed)
- 132.APPENDIX B Utilization Parameters (Repealed)
- 132.TABLE A Mental Health Clinic Program Client Services (Repealed)
 - 132.TABLE B Rehabilitative Mental Health Services (Repealed)
 - 132.TABLE C Family Intervention, Stabilization and Reunification Services (Repealed)

AUTHORITY: Implementing and authorized by the Community Services Act [405 ILCS 30] and Section 15.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.3].

SOURCE: Emergency rules adopted at 16 Ill. Reg. 211, effective December 31, 1991, for a maximum of 150 days; new rules adopted at 16 Ill. Reg. 9006, effective May 29, 1992; amended at 18 Ill. Reg. 15593, effective October 5, 1994; emergency amendment at 19 Ill. Reg. 9200, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16178, effective November 28, 1995; amended at 21 Ill. Reg. 8292, effective June 25, 1997; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; amended at 22 Ill. Reg. 21870, effective December 1, 1998; emergency amendment at 23 Ill. Reg. 4497, effective April 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10205, effective August 23, 1999; amended at 24 Ill. Reg. 17737, effective November 27, 2000; amended at 26 Ill. Reg. 13213, effective August 20, 2002;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

amended at 28 Ill. Reg. 11723, effective August 1, 2004; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 132.10 Purpose

- a) The requirements set forth in this Part establish criteria for participation by providers in the Medicaid community mental health [services](#) program. The Medicaid community mental health [services](#) program shall include the provision of specific mental health services pursuant to this Part supported financially in whole or in part by a public payer, as defined in Section 132.25.
- b) These requirements are for the purpose of assuring that clients receiving Medicaid community mental health services shall receive services in accordance with this Part and in accordance with 42 CFR 440 and 456 (2003) for Medicaid-eligible clients.
- c) The Department of Human Services (DHS) and the Department of Children and Family Services (DCFS) and the Department of Corrections (DOC), pursuant to an executed interagency agreement with [the Department of Healthcare and Family Services \(HFS\) DPA](#), shall use these requirements to certify, recertify, and periodically review providers participating in the Medicaid community mental health [services](#) program, including the certification and recertification of the provider's eligibility for enrollment in the Illinois medical assistance program (89 Ill. Adm. Code 140).
- d) The Medicaid community mental health [services](#) program is for clients who require mental health services as indicated by a diagnosis contained in the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) (Centers for Medicare and Medicaid Services (CMMS) (2003)). This shall include services designed to benefit clients:
 - 1) Who require an evaluation to determine the need for mental health treatment; or
 - 2) Who are assessed to require medically necessary mental health treatment to promote growth or maintenance of age appropriate or independent role functioning; or

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- 3) Who are experiencing a substantial change/deterioration in age appropriate or independent role functioning, acute symptomatology, and who require crisis intervention services to achieve stabilization; or
 - 4) Who, because of substantial impairment in role functioning, require multiple coordinated mental health services delivered in a variety of settings.
- e) Transition. In order to effectuate a smooth transition from the Part 132 rules as they existed prior to the most recent effective date August 1, 2004 revisions and as they existed after that date, the State agencies will, until three months from the most recent effective date of this rule, November 1, 2004, recognize any previous valid documentation presented by a provider that has not been updated to reflect the new requirements of the most recent effective date adopted on August 1, 2004. After three months from the most recent effective date of this rule, November 1, 2004, this Part is fully applicable.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.25 Definitions

For the purposes of this Part, the following terms are defined:

"Adult." An individual who is 18 years of age or older or a person who is emancipated pursuant to the Emancipation of Mature Minors Act [750 ILCS 30].

"Applicant." An entity that seeks certification to provide Medicaid community mental health services under this Part.

"Certifying State Agency." Departments responsible for determining and monitoring compliance with this Part: Department of Human Services, Department of Children and Family Services or the Department of Corrections.

"CGAS." The Children's Global Assessment Scale as published in the Archives of General Psychiatry, Volume 40, November 1983, pp. 1228-1231.

"Client." An individual who is Medicaid-eligible and is receiving Medicaid community mental health services.

"CMMS." Centers for Medicare and Medicaid Services. A federal agency within

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the U.S. Department of Health and Human Services with responsibility for Medicare, Medicaid, State Children's Health Insurance (SCHIP), Health Insurance Portability and Accountability Act (HIPAA), and Clinical Laboratory Improvement Amendments (CLIA).

"Collateral." A person with a relationship to a client and who is important in the treatment or recovery goals of the client or who is a resource to assist the client in meeting treatment or recovery goals.

"Confidentiality Act." The Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110].

"Contract." For purposes of this Part, a written agreement between the applicant/provider and a public payer.

"Co-occurring." Co-existing mental health and substance use disorders or developmental disabilities. Individuals eligible to receive services under this Part must have a diagnosis of mental illness.

"Day." A calendar day unless otherwise indicated.

"DCFS." The Illinois Department of Children and Family Services.

"DHS." The Illinois Department of Human Services.

"DOC." The Illinois Department of Corrections.

~~"DPA." The Illinois Department of Public Aid.~~

"DSM-IV." The Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (1994) or DSM-IV-TR (2000), American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, Virginia 22209-3901.

"Enrollment." The official enrollment of a provider in the medical assistance program by HFSDPA on determination of compliance with 89 Ill. Adm. Code 140.11.

"Family." A basic unit or constellation of one or more adults and children, foster or adoptive parents and children, and private individual guardians.

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"GAF." The Global Assessment of Functioning Scale contained in the DSM-IV.

"Guardian." The court-appointed guardian or conservator of the person under the Probate Act of 1975 [755 ILCS 5] or a temporary custodian or guardian of the person of a child appointed by an Illinois juvenile court or a legally-appointed guardian or custodian or other party granted legal care, custody and control over a minor child by a juvenile court of competent jurisdiction located in another state whose jurisdiction has been extended into Illinois via the child's legally authorized placement in accordance with the applicable interstate compact. (The Juvenile Court Act of 1987 [705 ILCS 405]; Interstate Compact on the Placement of Children [45 ILCS 15])

"HFS." The Illinois Department of Healthcare and Family Services.

"HIPAA." The Health Insurance Portability and Accountability Act (42 USC 1320 et seq.) (45 CFR 160 and 164 (2003)).

"ICD-9-CM." International Classification of Diseases, 9th Revision, Clinical Modification (Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244-1850 (2003)).

"ITP." Individual treatment plan.

"Level of role functioning." Refers to the client's abilities in critical areas such as vocational, educational, independent living, self-care, and social and family relationships. To assess the severity of the impairment in role functioning, scales approved for use include, but are not limited to, the GAF Scale or the CGAS Scale.

"Licensed clinician." An individual who is either a licensed practitioner of the healing arts (LPHA); a licensed social worker (LSW) possessing at least a master's degree in social work and licensed under the Clinical Social Work and Social Work Practice Act [225 ILCS 20] with specialized training in mental health services or with at least two years experience in mental health services; a licensed professional counselor possessing at least a master's degree and licensed under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107] with at least two years experience in mental health services; a registered nurse (RN) licensed under the Nursing and Advanced Practice Nursing Act [225 ILCS 65] with at least one year of clinical experience in a mental health setting or who possesses a master's degree in psychiatric nursing; or an

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occupational therapist (OT) licensed under the Illinois Occupational Therapy Practice Act [225 ILCS 75] with at least one year of clinical experience in a mental health setting.

"Licensed practitioner of the healing arts (LPHA)." An Illinois licensed health care practitioner who, within the scope of State law, has the ability to independently make a clinical assessment, certify a diagnosis and recommend treatment for persons with a mental illness and who is one of the following: a physician; an advanced practice nurse with psychiatric specialty licensed under the Nursing and Advanced Practice Nursing Act [225 ILCS 65]; a clinical psychologist licensed under the Clinical Psychologist Licensing Act [225 ILCS 15]; a licensed clinical social worker (LCSW) licensed under the Clinical Social Work and Social Work Practice Act [225 ILCS 20]; a licensed clinical professional counselor (LCPC) licensed under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]; or a licensed marriage and family therapist (LMFT) licensed under the Marriage and Family Therapist Licensing Act [225 ILCS 55] and 68 Ill. Adm. Code 1283.

"Medicaid." Medical assistance authorized by HFSDPA under the provisions of the Illinois Public Aid Code [305 ILCS 5/Art. V], the Children's Health Insurance Program Act [215 ILCS 106] and Titles XIX and XXI of the Social Security Act (42 USCA 1396 and 1397aa).

"Mental health professional (MHP)." An individual who provides services under the supervision of a qualified mental health professional and who possesses: a bachelor's degree; a practical nurse license under the Nursing and Advanced Practice Nursing Act [225 ILCS 65]; a certificate of psychiatric rehabilitation from a DHS-approved program plus a high school diploma plus 2 years experience in providing mental health services; an occupational therapy assistant licensed under the Illinois Occupational Therapy Practice Act [225 ILCS 75] with at least one year of experience in a mental health setting; or a minimum of 5 years supervised experience in mental health or human services. Any individual meeting the minimum credentials for an LPHA or QMHP under this Part is deemed to also meet the credentialing requirements of an MHP.

"Mental illness." A mental or emotional disorder diagnosis contained in the DSM-IV or ICD-9-CM, authorized by the public payer funding the services under this Part and the condition that will be the main focus of treatment for services under this Part. Mental illness does not include organic disorders such as dementia and those associated with known or unknown physical conditions such

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as hallucinosis, amnestic disorder and delirium; psychoactive substance induced organic mental disorders; and mental retardation or psychoactive substance use disorders.

"Off-site." Locations other than provider sites, as described in this Part, where community mental health services are provided and that require the staff to travel from their usual office base in order to deliver the service. A place of residence that is owned or operated by a provider and occupied by a client will be considered an off-site location unless there is an office on-site that is the usual office base of the staff delivering the services.~~Any location, other than the provider's certified site, where the services defined in this Part are delivered.~~

"Part 132 services." The community mental health services described in this Part.

"Physician." A physician licensed under the Medical Practice Act of 1987 [225 ILCS 60] to practice medicine in all its branches.

"Prior authorization." A process established by the public payer to ensure that services set forth in the individualized treatment plan are medically necessary.

"Provider." An entity certified to provide Medicaid community mental health services in accordance with this Part.

~~"Psychotropic medication monitoring and training." On-going observation of the client's response to his or her medication and information provided to a client with mental illness regarding the appropriate use of the psychotropic medication prescribed for his or her mental illness.~~

"Public payer." HFSDPA, a State agency or a unit of local government that is responsible for payment for services under this Part provided to a client pursuant to a contract with the provider.

"Qualified mental health professional" or ~~"(QMHP)."~~ One of the following:

~~A licensed practitioner of the healing arts (LPHA);~~

A licensed social worker (LSW) possessing at least a master's degree in social work and licensed under the Clinical Social Work and Social Work Practice Act [225 ILCS 20] with specialized training in mental health services or with 2 years experience in mental health services;

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A licensed professional counselor possessing at least a master's degree and licensed under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107] with at least two years experience in mental health services;

A registered nurse (RN) licensed under the Nursing and Advanced Practice Nursing Act [225 ILCS 65] with at least one year of clinical experience in a mental health setting or who possesses a master's degree in psychiatric nursing;

An occupational therapist (OT) ~~licensed~~ registered under the Illinois Occupational Therapy Practice Act [225 ILCS 75] with at least one year of clinical experience in a mental health setting; or

An individual possessing at least a master's degree in counseling and guidance, rehabilitation counseling, social work, vocational counseling, psychology, pastoral counseling, or family therapy or related field, who has successfully completed a practicum or internship that included a minimum of 1,000 hours of supervised direct service, or who has one year of clinical experience under the supervision of a QMHP.

Any individual meeting the minimum credentials for an LPHA under this part is deemed to also meet the credentialing requirements of a QMHP.

"Rehabilitative services associate (RSA)." An RSA must be at least 21 years of age, have demonstrated skills in the field of services to adults or children, have demonstrated the ability to work within the provider's structure and accept supervision, and have demonstrated the ability to work constructively with clients, treatment resources and the community. Any individual meeting the minimum credentials for an MPH, QMHP or LPHA under this Part is deemed to also meet the credentialing requirements of an RSA.

"SASS." A program of intensive mental health services provided by an agency certified to provide Part 132 services and under contract to provide screening, assessment and support services to children with a mental illness or emotional disorder who are at risk for psychiatric hospitalization.

"Specialized substitute care living arrangement." A living arrangement providing services to a client supervised by a provider licensed under the Child Care Act of

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1969 [225 ILCS 10] or any comparable Act in another state when the provider is under contract to the State agency.

"State agency." [Department of Healthcare and Family Services, Department of Juvenile Justice,](#) Department of Human Services, Department of Children and Family Services or the Department of Corrections.

"Unit of local government." A county, municipal corporation, or other local government entity organized under the laws of the State of Illinois that, pursuant to an executed intergovernmental agreement with [HFSDPA](#), has agreed to pay for Medicaid community mental health services.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.30 Application, Certification and Recertification Processes

- a) A State agency, subject to an executed interagency agreement with [HFSDPA](#) in its capacity as the Medicaid State agency for Illinois, is authorized to perform the functions ascribed under this Part.
- b) Any entity having a contract with a State agency for the provision of mental health services, other than hospital inpatient or hospital outpatient psychiatric services, with DCFS for the provision of child welfare services, with DCFS or DHS for the provision of youth services, or with DOC for the provision of youth treatment, rehabilitative or transitional services may apply for certification as a provider. Applicants who meet the requirements of this Part will be certified by one of the State agencies and enrolled as a provider in the Illinois medical assistance program by [HFSDPA](#) pursuant to 89 Ill. Adm. Code 140.11. Providers will be certified by, and subject to, Medicaid certification review by only one State agency. Providers who are certified to provide comparable Medicaid services in other states may apply to a State agency for reciprocity consideration and enrollment. Providers applying for reciprocity consideration and enrollment will be subject to the same standards as those providers applying for certification under this Part.
- c) Applications may be obtained by submitting a request in writing to:

Illinois Department of Human Services
Bureau of Accreditation, Licensure and Certification
[401 North Fourth Street](#)~~303 East Monroe Street~~, 2nd Floor East

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Springfield, Illinois ~~62702~~62701

or

Illinois Department of Children and Family Services
Office of Medicaid Certification
406 East Monroe Street
Springfield, Illinois 62701

or

Illinois Department of Corrections
Office of Medicaid Certification
1301 Concordia Court
Springfield, Illinois 62794-9277

- d) The applicant shall submit to DHS, DCFS or DOC a completed "Application for Certification of Medicaid Community Mental Health Services Programs" with all of the required accompanying components, as specified on the application form. An applicant shall submit its application to the Certifying State Agency that it intends to contract with for Part 132 services.
- 1) If an applicant intends to contract for Part 132 services with more than one State agency, the applicant shall submit its application to the State agency that provides the most funding for those Medicaid community mental health services.
 - 2) If the funding from the Certifying State Agencies is equal, the applicant shall submit the application to DHS.
 - 3) The application shall request information including, but not limited to:
 - A) Applicant Provider name and corporate status;
 - B) List of services the applicant provider is requesting be certified;
 - C) Description of how each service to be certified fits into the programs of the applicant and other evidence of compliance with specific service definitions provider;

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- D) List of sites to be certified;
 - E) Fire, electrical and plumbing clearances for each site, pursuant to Section 132.90;
 - F) The address of all accessible sites;
 - G) A staffing roster including staff qualifications and supervisory responsibilities;
 - H) Policies on confidentiality and third-party payments; ~~and~~
 - I) Utilization review plan; ~~and~~
 - J) Medicare certification status.
- e) If the application form and all of the required components are in compliance with this Part, the State agency shall issue to the provider a certificate for thea Medicaid community mental health services program.
- 1) An applicant that submits an application that is not in compliance with this Part shall receive a Notice of Deficiencies. The Certifying State Agency shall issue the Notice of Deficiencies within 30 days after receiving the application. If the applicant intends to proceed with applying for Medicaid certification, the applicant shall submit corrected documentation to address all of the deficiencies. The applicant shall submit the corrected documentation to the Certifying State Agency that received the application and issued the Notice of Deficiencies.
 - 2) The State agency shall issue the certificate within 30 days after the Certifying State Agency receives the completed application and all required components, including corrected documentation, if applicable. The effective date of certification shall be the date that the application or, if required, corrected documentation was approved. The Certifying State Agency shall also send the Medicaid enrollment forms to the provider. The provider shall complete the enrollment forms for each certified site to enroll those sites in the Illinois medical assistance program.
- f) Certification shall be for a 3-year period.

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- 1) Any changes during the certification period that affect the ability of the provider to deliver services in compliance with the requirements of this Part shall be reported to the Certifying State Agency.
 - 2) A provider shall deliver only mental health services under this Part for which it is certified.
- g) Within 12 months after the date of initial certification, the Certifying State Agency shall conduct a review.
- 1) At the review, the Certifying State Agency shall evaluate the provider's compliance with this Part.
 - 2) If no deficiencies are noted at the review, the Certifying State Agency shall notify the provider of the results within 30 days after the completion of the review. Compliance reviews for recertification shall be conducted on or about the expiration date of the current certification period.
 - 3) If deficiencies are noted at the review, the Certifying State Agency shall report those deficiencies to the provider during an exit conference. The Certifying State Agency shall also issue a Notice of Deficiencies, return receipt requested, to the provider within 30 days after the completion of the review.
 - 4) If the Certifying State Agency issues a Notice of Deficiencies to the provider, the provider shall respond with a Plan of Correction pursuant to Section 132.45(a). The Plan of Correction shall address all of the deficiencies listed on the Notice of Deficiencies. The Plan of Correction must identify the actions that have been, or will be, taken to comply with this Part and the timeframes for implementing the corrective actions. Unless otherwise specified, the timeframes for implementing corrective actions must follow the requirements specified in Section 132.45. The provider must submit this Plan of Correction to the Certifying State Agency within 30 days after the return receipt of the Notice of Deficiencies.
 - A) Providers that submit a Plan of Correction approved by the Certifying State Agency shall be notified of the

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approval. The Certifying State Agency shall notify the provider of the approval within 30 days after the Certifying State Agency receives the provider's Plan of Correction. The Certifying State Agency shall verify the provider's implementation of the Plan of Correction at the next review. If a Plan of Correction was required, the next review shall occur within 12 months after the date the Plan of Correction was approved.

- i) If the findings at the next review indicate that a provider has failed to implement a Plan of Correction, the Certifying State Agency may revoke the provider's certification.
 - ii) Compliance reviews for recertification shall be conducted on or about the expiration date of the current certification period.
- B) If a provider submits a Plan of Correction that does not address the deficiencies noted during a review pursuant to subsection (g)(4), the Certifying State Agency shall notify the provider within 30 days after receipt of the provider's Plan of Correction. The provider shall submit a revised Plan of Correction that addresses the deficiencies within 10 days after receiving notification. The Certifying State Agency may revoke the provider's certification if the provider fails to submit an acceptable revised Plan of Correction within 10 days after the return receipt date.
- C) The Certifying State Agency may revoke a provider's certification if the provider fails to submit a Plan of Correction for deficiencies noted during a review within 30 days after receipt of the Notice of Deficiencies.
- h) Compliance reviews for recertification shall be conducted on or about the expiration date of the current certification period. If the Certifying State Agency fails to conduct a compliance review for certification before the expiration of the current certification period, the certification shall remain valid until completion of the compliance review. Subsequent compliance reviews shall follow the process outlined in subsection (g).

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- i) The ~~Certifying~~certifying State ~~Agency~~agency, ~~HFSDPA~~, or their respective agents, shall be granted access to all provider sites. All records shall be made available to the ~~Certifying~~certifying State ~~Agency~~agency, ~~HFSDPA~~, or their respective agents, on request during the initial certification review, recertification reviews and any other compliance reviews for services delivered under this Part. Access to records shall occur in accordance with the Confidentiality Act.
- j) An applicant/provider who has been decertified by Medicare shall not be eligible for certification under this Part.
- k) When a decision is made to deny certification of an applicant or recertification of a provider, the applicant/provider may appeal the decision and request a hearing in accordance with Section 132.55 of this Part and Section 10-25 of the Illinois Administrative Procedure Act [5 ILCS 100/10-25].
- l) If an applicant/provider has been denied certification or recertification, or if the provider's certification has been revoked, the applicant/provider may not reapply for certification under this Part for at least one year after the date of the final decision, including any appeals regarding certification, recertification or revocation.
- m) Following a review, a provider shall be notified of its level of compliance with this Part as specified in Section 132.45.
- n) The findings from a review shall be placed in one of the levels of compliance as described in Section 132.45.
- o) Providers that seek certification for new sites shall submit the following documentation to the ~~Certifying~~certifying State ~~Agency~~agency:
- 1) A clearance letter from the Office of the State Fire Marshal or approved local fire authority, dated within the preceding 12 months, stating that each additional site complies with local and State fire safety ordinances and codes pursuant to Section 132.90. For providers certified by DHS, the clearance letter must come from the Office of the State Fire Marshal only.
 - 2) A signed statement from a licensed plumber or licensed architect, dated within the preceding 12 months, stating that each additional site complies with applicable plumbing codes pursuant to Section 132.90.

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- 3) A signed statement from ana-licensed electrician or licensed architect, dated within the preceding 12 months, stating that each additional site complies with applicable electrical codes pursuant to Section 132.90.
- 4) A signed statement from the provider, dated within the preceding 12 months, attesting to compliance with requirements of physical accessibility standards pursuant to Section 132.90.
- pe) Providers that seek certification for additional Part 132 services shall submit a description of the additional services, including evidence of compliance with specific service definitions in this Part. Providers requesting to add Part 132 services whose standards are changed as a result of the revision of this Part are expected to show compliance with standards as adopted. The description shall state how the additional services will be provided within the provider's program and shall include a listing of the LPHAs and QMHPs who will be responsible for directing the services. The provider shall submit the documentation for certification of additional services to the Certifyingeertifying State Agencyagency.
- qp) Additional sites or services must be approved by the Certifyingeertifying State Agencyagency before the additional sites or services may be considered for certification.
- rq) The provider's application for certification of additional sites or services shall be processed by the Certifyingeertifying State Agencyagency according to the provisions outlined in subsection (e). Approved additional sites or services shall be indicated on a revised certificate. If additional sites are certified, the provider shall enroll those sites in the Illinois medical assistance program. The addition of sites or services will not alter the expiration date of the certificate.
- sf) The Certifyingeertifying State Agencyagency shall survey any additional sites or services for compliance with this Part during the next review.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.42 Post-Payment Review

The State agency may conduct on-site post-payment reviews to determine compliance with documentation requirements of this Part and to determine amounts subject to recoupment.

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- a) The State agency shall compare billed services to those listed on the ITP or Admission Note in effect at the time service was provided. The State agency will determine that the following are unsubstantiated:
 - 1) Billings for services without a completed ITP or Admission Note being in effect, except for mental health assessment; ITP development, review and modification; crisis intervention; transition linkage and aftercare; or mental health case management pursuant to Section 132.165(a)(1);
 - 2) Billings for services that the provider is not certified to provide;
 - 3) Billings for services not listed on the ITP or Admission Note, except for mental health assessment; ITP development, review and modification; crisis intervention; transition linkage and aftercare; or mental health case management pursuant to Section 132.165(a)(1); or
 - 4) Billings that do not comply with the documentation required in this Part.
- b) The post-payment review must verify compliance with the documentation requirements identified in subsection (a) of this Section.
- c) The State agency will report its findings to the provider through an Initial Notice of Unsubstantiated Billings.
 - 1) The initial notice will be sent to the provider within 30 days after the completion of the on-site review.
 - 2) The provider will have 30 days after the receipt of the initial notice to submit documentation that was not available during the on-site review. Documentation submitted may not include anything produced following the on-site review.
 - A) The State agency will review the additional documentation within 14 days after receipt to determine if it meets the requirements of this Part.
 - B) Adjustments will be made to the State agency's findings if the additional documentation meets the requirements of this Part.

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- d) The State agency will report the final outcome to the provider through a Final Notice of Unsubstantiated Billings or a Notice of Suspension from Billing.
- 1) When a provider receives a Notice of Suspension from Billing, the provider will immediately stop submitting bills for Medicaid community mental health services under this Part.
 - 2) The provider will have 90 days to make corrections to its documentation processes to bring them into compliance with this Part.
 - 3) When the provider notifies the State agency in writing that they have made the necessary corrections, the State agency will review them for compliance with this Part within 14 days.
 - 4) If compliant, the provider will be notified by mail and may resume billing.
 - 5) The provider may submit bills that have the required documentation for services provided during the suspension.
 - 6) If corrections are not made within 90 days, the State agency shall revoke the provider's certification.
- e) If the State agency finds evidence of suspected Medicaid fraud or abuse, the State agency shall refer such evidence to [HFSÐPA](#), Office of Inspector General for further action.
- f) [HFSÐPA](#), in its capacity as the Medicaid single state agency for Illinois, may conduct on- or off-site reviews of payments made by any and all public payers to a provider.
- g) The provider may appeal the State agency's intent to recover funds as specified in Section 132.44.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.44 Appeal of Post-Payment Review Findings

- a) If the State agency determines that the provider is not in compliance with the billing documentation requirements of this Part pursuant to a post-payment review

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conducted in accordance with Section 132.42, the State agency shall notify the provider in writing of its findings. The notice shall include:

- 1) The reason for the State agency's findings;
 - 2) A statement of the provider's right to request a hearing within 20 days after the provider's receipt of the written notice;
 - 3) A statement of the legal authority and jurisdiction under which the hearing is to be held; and
 - 4) The address where a request for hearing may be filed.
- b) If a provider chooses to appeal the State agency's findings, the provider shall submit a written request for a hearing to the State agency within 20 days after the date of receipt of the written notice.
- c) The sole issue at the hearing shall be whether the provider is in compliance with billing documentation requirements set forth in this Part.
- d) The request for hearing shall be filed with, and received by, the State agency within 20 days after the date of the receipt of the written notice to the provider.
- e) Hearing process
- 1) HFS's DPA's hearing rules for medical vendor hearings at 89 Ill. Adm. Code 104.200 shall apply, except that the following Sections do not apply to these hearings: 104.204, 104.206, 104.208, 104.210, 104.216, 104.217, 104.221, 104.260, 104.272, 104.273 and 104.274.
 - 2) The State agency shall, within 5 days after receiving the appeal, send a copy of the appeal to the Illinois Department of Healthcare and Family Services ~~Public Aid~~ Vendor Hearings Section, 401 South Clinton, 6th Floor, Chicago, Illinois 60607.
 - 3) The appellant shall direct all subsequent communications relevant to the hearing to the HFS DPA Vendor Hearings Section.
 - 4) An administrative law judge appointed by HFS DPA shall conduct the hearing.

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- 5) A recommended decision shall be submitted to the Director of Healthcare and Family Services~~Public Aid~~ and copies mailed to the parties, in accordance with the provisions of 89 Ill. Adm. Code 104.290. A copy shall also be mailed to the State agency that referred the matter to HFS~~DPA~~.
- f) Final administrative decision
The Director of Healthcare and Family Services~~Public Aid~~ shall issue a final administrative decision in accordance with the provisions of 89 Ill. Adm. Code 104.295.
- g) Judicial review
The final administrative decision shall be subject to judicial review exclusively as provided in the Administrative Review Law [735 ILCS 5/Art. III].
- h) A provider shall be liable for reimbursement of claims submitted from the date of the final administrative decision pursuant to this Section if such decision results in an adverse finding for the provider.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.45 Compliance with Certification Requirements

- a) Medicaid community mental health service providers shall be recognized according to levels of compliance with standards as set forth in this Part. Providers with findings of Level 1 and 2 will be considered to be in good standing with the State agency. The levels of compliance are:
- 1) Level 1 – Compliant: No written Plan of Correction will be required of the provider (90-100% compliance).
 - 2) Level 2 – Substantial compliance: A Notice of Deficiencies is issued. The provider shall submit a written Plan of Correction to address the identified deficiencies. Within 12 months after the date that a Plan of Correction is approved, the Certifying State Agency~~agency~~ shall conduct a review to evaluate the provider's implementation of the Plan of Correction. If the provider fails to submit and implement a Plan of Correction within the designated time frame, the Certifying State Agency~~agency~~ may revoke

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the provider's certification to provide services pursuant to this Part (75-89% compliance).

- 3) Level 3 – Minimal compliance: A Notice of Deficiencies is issued. The provider shall submit a written Plan of Correction to address the identified deficiencies. ~~After~~Within 90 days ~~of~~after the date that a Plan of Correction is approved, the Certifying State Agency shall conduct a review to evaluate the provider's implementation of the Plan of Correction. The provider's level of compliance must reach at least Level 2 to demonstrate implementation of the Plan of Correction. If the provider fails to submit and implement a Plan of Correction within the designated time frame, the Certifying State Agency may revoke the provider's certification to provide services pursuant to this Part (50-74% compliance).
- 4) Level 4 – Unsatisfactory compliance: A Notice of Deficiencies is issued. The provider shall submit a written Plan of Correction to address the cited deficiencies. ~~After~~Within 60 days ~~from~~after the date that a Plan of Correction is approved, the Certifying State Agency shall conduct a review to evaluate the provider's implementation of the Plan of Correction. The provider's level of compliance must reach at least Level 3 to demonstrate implementation of the Plan of Correction. ~~After~~Within 90 days ~~from~~after the date that the Plan of Correction was approved, the provider's level of compliance must reach at least Level 2 to demonstrate implementation of the Plan of Correction. If the provider fails to submit and implement a Plan of Correction within the designated time frames, the Certifying State Agency may revoke the provider's certification to provide services pursuant to this Part (under 50% compliance).
- b) When a written Plan of Correction is required, the provider shall submit the Plan of Correction within 30 days after receipt of the Notice of Deficiencies.
- c) In the event that all contracts between the provider and a State agency for the provision of services under this Part are terminated, certification of the provider shall likewise be revoked and HFS/DPA will be advised of this by the State agency. The provider is solely liable for the cost of services provided after a contract has been terminated or certification has been revoked.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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Section 132.50 Revocation of Certification

- a) The Certifying State Agency shall issue a written notice revoking certification during a certification period for any of the following:
- 1) Provider meeting any of the grounds for termination set forth in 89 Ill. Adm. Code 140.16; or
 - 2) Provider discontinuing delivery of all Medicaid community mental health services for which the provider has been certified; or
 - 3) Provider being convicted of defrauding the medical assistance program under Article VIIIA of the Illinois Public Aid Code [305 ILCS 5/Art. VIIIA].
- b) In the event that all contracts between the provider and a State agency for the provision of services under this Part are terminated, certification of the provider shall likewise be revoked and HFSDPA will be advised of this by the State agency. The provider is solely liable for the cost of services provided after a contract has been terminated or certification has been revoked.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.55 Appeal of Certification Decisions

- a) An applicant or provider may appeal the following to the Certifying State Agency:
- 1) Refusal to issue certification;
 - 2) Refusal to issue recertification; or
 - 3) Revocation of certification.
- b) Certification appeal criteria and process
- 1) If the Certifying State Agency determines that certification or recertification should not be issued or that certification should be revoked, the Certifying State Agency shall send, by certified mail, return

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receipt requested, written notice to the applicant or the provider within 30 days after the determination. The notice shall contain the specific requirements with which the applicant or provider has not complied, the Certifying State Agency's proposed action, and the applicant or provider rights as follows:

- A) If the applicant or provider chooses to appeal the Certifying State Agency's decision, the applicant or provider shall submit a written request for a hearing to the Certifying State Agency within 20 days after the dated receipt of the notice.
- B) If an appeal is initiated by a provider, services shall be continued pending a final administrative decision unless the Certifying State Agency also determines, and notifies the provider, that conditions specified in Section 132.45(c) apply.
- C) The request for a hearing shall be addressed to the appropriate Certifying State Agency as follows:

Illinois Department of Human Services
Bureau of Administrative Hearings
100 South Grand Avenue East, 3rd Floor
Springfield IL 62762-0001

or

Illinois Department of Children and Family Services
Office of Medicaid Certification
406 East Monroe
Springfield IL 62701-1498

or

Illinois Department of Corrections
Office of Medicaid Certification
1301 Concordia Court
Springfield IL 62794-9277

- 2) If the applicant or provider does not submit a request for a hearing, as provided in this Part, or if, after conducting the hearing, the Certifying

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State Agency determines that the certification or recertification should not be issued or that the certification should be revoked, the Certifying State Agency shall issue an order to that effect. If the order is to revoke the certification, it shall specify that the order takes effect upon receipt by the provider and that the provider shall not provide Medicaid community mental health services during the pendency of any proceeding for judicial review of the Certifying State Agency's decision, except by court order.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.60 Rate Setting

- a) The State agency shall compute rates of reimbursement for services under this Part. The rates will be effective only after approval by HFSDPA in its capacity as the Medicaid single state agency. Providers and the public shall be informed of any changes in the methods and standards of determining payment rates for services funded under this Part pursuant to 42 CFR 447.205 (2003).
- b) Rate calculation
 - 1) For services authorized by this Part to be reimbursed at fractions of or multiples of service hours, the State agency shall calculate rates on an hourly basis. Rates shall be calculated for each of the direct care staff classifications (RSAs, MHPs, QMHPs, and RNs) as the sum of average annual direct care wages and salaries (including paid benefits) and annual per person overhead and administrative costs necessary for direct care staff divided by billable annual direct care staff hours.
 - 2) Average annual direct care wages and salaries shall be obtained for each of the 4 direct care staff classifications from the most recent State of Illinois Consolidated Financial Reports, as submitted to meet the requirements in Section 132.80(b). Annual per person overhead and administrative costs necessary for direct care staff shall be calculated from a model of reasonable and efficient operation and include consideration of the cost of administrative staff, support staff, clinical supervisory staff, and site operation. Billable annual direct care staff hours shall be calculated from a model of reasonable and efficient operation and include the consideration of direct care staffing activities necessary to produce billable services that are not themselves billable, such as training, travel,

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documentation, and missed appointments.

- A) Hourly crisis service rates shall be calculated in the manner described in subsection (b)(1) and multiplied by a factor of 1.6 to compensate for availability of 24 hours per day, 7 days per week.
- B) Hourly rates for services that may be provided for groups of clients shall be calculated in the manner described in subsection (b)(2) and divided by the maximum allowable group size as specified in Section 132.150, with an allowance for incomplete attendance or participation.
- c) Mental health services described in Subpart C of this Part may be integrated into a comprehensive array and billed on a per diem basis and defined on an individual specialized substitute care provider basis by the State agency using the factors enumerated in subsection (b) of this Section.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART B: PROVIDER ADMINISTRATIVE REQUIREMENTS

Section 132.70 Personnel and Administrative Recordkeeping

- a) The provider shall have a comprehensive set of personnel policies and procedures that include, but are not limited to:
 - 1) Job descriptions and qualifications and documentation of current licensure and certification for all staff, including those on contract with the provider or with an entity subcontracting with the provider. The provider shall also maintain job descriptions for volunteers and unpaid personnel;
 - 2) Documentation that staff providing or supervising services pursuant to this Part meet the staff qualifications defined in this Part, and that their individual performance is evaluated no less frequently than once every 12 months; and
 - 3) Documentation that the provider has written personnel policies concerning hiring, evaluating, disciplining and terminating staff.
- b) The provider must show documentation indicating that staff have engaged in

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professional development and continuing education activities. Acceptable documentation may include, but is not limited to, training approval forms, reimbursement/payments for training, training calendars, outlines of training activities, or a list of notifications or training events.

- c) A provider certified or funded by DHS shall not employ a person in any capacity until the provider has inquired of the Department of Public Health as to information in the Nurse Aide Registry concerning the person. If the Registry has information substantiating a finding of abuse or neglect against the person, the provider shall not employ him or her in any capacity.
- d) Each provider shall develop, implement and maintain a plan for clinical supervision of all non-licensed staff who perform Part 132 services that includes, at a minimum, one hour of face-to-face supervision per month documented in a written record.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.80 Fiscal Requirements

- a) Providers shall have a formal accrual accounting system in accordance with any generally accepted accounting principles (GAAP).
- b) The provider shall submit to the ~~Certifying~~ State ~~Agency~~ within 180 days after the end of the State fiscal year the State of Illinois Consolidated Financial Report, unless the State agency extends the time-frame for a provider.
- c) The provider shall comply with the requirements governing audits, false reporting and other fraudulent activities pursuant to 89 Ill. Adm. Code 140.30 and 140.35 for services provided to Medicaid-eligible clients.
- d) Billings for services rendered under the Medicaid community mental health services program shall be submitted only by the provider of the service and only to the public payer with which the provider has contracted for the service.
- e) The provider shall determine if there are any third party payers liable for treatment costs incurred by a client and shall follow procedures for seeking payment from these parties and for calculating subsequent Medicaid charges as outlined in 89 Ill. Adm. Code 140. A third-party payer is any entity, other than the client or public payer, with an obligation to the client to pay for services

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defined in this Part.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.85 Recordkeeping

- a) The provider shall maintain records, including but not limited to the following:
 - 1) All payments received, including cash;
 - 2) All payments made, including cash;
 - 3) Corporate papers, including stock record books and minute books;
 - 4) All arrangements and payments related in any way to the leasing of real estate or personal property, including any equipment;
 - 5) All accounts receivable and payable;
 - 6) Service billing files;
 - 7) Clinical records as defined in Section 132.100; and
 - 8) Individual client information, including: guardianship, representative payee, trust beneficiary and resource availability.
- b) Required records shall be retained for a period of not less than 6 years from the date of service, except that if an audit is initiated within the required retention period the records shall be retained until the audit is completed and every exception resolved. This provision is not to be construed as a statute of limitations.
- c) Required records shall be readily available for inspection, audit and copying during normal business hours by personnel representing the [Certifying](#) State [Agency](#), the public payer, [HFSDPA](#), or the Centers for Medicare and Medicaid Services (CMMS), U.S. Department of Health and Human Services. Reviewing personnel shall make all attempts to examine such records without interfering with the professional activities of the provider.
- d) The compilation and storage of and accessibility to client information and clinical

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records shall be governed by written policies and procedures, in accordance with the Confidentiality Act and HIPAA.

- e) Clinical records and other client information shall be secured from theft, loss, or fire.
- f) Electronic signature or computer-generated signature codes are acceptable as authentication of record content.
 - 1) In order for a provider to employ electronic signatures or computer-generated signature codes for authentication purposes, the provider shall adopt a policy that permits authentication by electronic or computer-generated signature.
 - 2) At a minimum, the policy shall include adequate safeguards to ensure confidentiality of the codes, including, but not limited to, the following:
 - A) Each user shall be assigned a unique identifier that is generated through a confidential access code.
 - B) The provider shall certify in writing that each identifier is kept strictly confidential. This certification shall include a commitment to terminate a user's use of a particular identifier if it is found that the identifier has been misused. "Misused" shall mean that the user has allowed another person or persons to use his or her personally assigned identifier or that the identifier has otherwise been inappropriately used.
 - C) The user shall certify in writing that he or she is the only person with user access to the identifier and the only person authorized to use the signature code.
 - D) The provider shall monitor the use of identifiers periodically and take corrective action as needed. The process by which the provider will conduct monitoring shall be described in the policy.
 - 3) A system employing the use of electronic signatures or computer-generated signature codes for authentication shall include a verification process to ensure that the content of authenticated entries is accurate. The verification process shall include, at a minimum, the following provisions:

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- A) The system shall require completion of certain designated fields for each type of document before the document may be authenticated, with no blanks, gaps or obvious contradictory statements appearing within those designated fields. The system shall also require that correction or supplementation of previously authenticated entries shall be made by additional entries, separately authenticated and made subsequent in time to the original entry.
 - B) The system shall make an opportunity available to the user to verify that the document is accurate and the signature has been properly recorded.
 - C) The provider shall periodically sample records generated by the system to verify the accuracy and integrity of the system.
- 4) Each report generated by a user shall be separately authenticated.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.90 Provider Sites

For the purpose of this Part, provider sites are discrete locations, other than a licensed foster family home, that are owned or leased by a provider for the purpose of providing Medicaid community mental health services.

- a) The provider shall use sites deemed accessible in accordance with the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.). "Accessibility" is determined by the extent to which the provider has adapted sites where services are provided to render its parking lot, entrances, hallway and physical facilities (lavatories, drinking fountains, ramps, etc.) available to persons with disabilities as well as the provider's arrangement to provide services to otherwise eligible clients for whom their site is inaccessible. The Certifying State Agency may waive or require specific accommodations to meet the needs of clients served at a particular site.
- b) Provider sites shall be in compliance with approved State and local ordinances and codes relating to fire, building and sanitation, and health and safety requirements as follows:

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- 1) Fire safety in accordance with rules of the Office of the State Fire Marshal at 41 Ill. Adm. Code 100.
 - 2) Building requirements shall be in compliance with the uniform or national building code adopted by the local or county ordinance. Documentation may include a written statement from ~~ana-licensed~~ electrician or licensed architect stating that the site is in compliance with applicable electrical codes and a written statement from a licensed plumber or licensed architect stating that the site is in compliance with applicable plumbing codes.
- c) To ensure the sanitation, health and safety of the sites, the provider shall:
- 1) Have written policies and procedures for the provision of housekeeping services at the sites.
 - 2) Develop and maintain a written external and internal emergency disaster plan, including a fire evacuation plan. External disasters include such occurrences as tornados, earthquakes and floods. Internal disasters include such occurrences as fire and heating and cooling systems failures.
 - 3) Designate space, equipment, and furnishings for the provision of services which shall be conducive to privacy, comfort and safety. This includes such aspects as child size furniture in children's programs, rooms sufficiently large to accommodate groups or families, and doors that close to afford privacy.
- d) The ~~Certifying~~ State ~~Agency~~ shall not review the requirements in this Section if the provider delivers Medicaid services exclusively in locations other than provider sites.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.91 Accreditation

- a) The ~~Certifying~~ State ~~Agency~~ shall grant deemed status to providers having a contract with the State agency and demonstrating current accreditation status under any of the standards of the following accrediting organizations:

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- 1) ~~20062003~~ Hospital Accreditation Standards (Joint Commission on Accreditation of Healthcare Organizations (JCAHO), One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181, ~~20062003~~);
 - 2) ~~2006-20072003~~ Standards for Behavioral Health Care (Joint Commission on Accreditation of Healthcare Organizations (JCAHO), One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181, ~~20062003~~);
 - 3) ~~2005-20062003~~ Comprehensive Accreditation Manual for Health Care Networks (Joint Commission on Accreditation of Healthcare Organizations (JCAHO), One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181, ~~20062003~~);
 - 4) COA Standards and Self Study Manual, 7th Edition (Council on Accreditation of Services for Families and Children (COA), 120 Wall Street, 11th Floor, New York, New York 10005, ~~20012003~~);
 - 5) ~~Quality Outcomes 2005Outcome-Based Performance Measures~~ (The Council on Quality Leadership, 100 West Road, Suite 406, Towson, Maryland 21204, ~~20054993~~);
 - 6) Standards Manual and Interpretive Guidelines for Behavioral Health (Commission on Accreditation of Rehabilitation Facilities (CARF), 4891 East Grant Road, Tucson, Arizona 85711, ~~20062003~~); or
 - 7) Standards Manual and Interpretive Guidelines for Employment and Community Support Services (Commission on Accreditation of Rehabilitation Facilities (CARF), 4891 East Grant Road, Tucson, Arizona 85711, ~~20062003~~).
- b) "Deemed status" means that if a provider has been accredited by any of the accrediting organizations identified in subsections (a)(1) through (a)(7) of this Section, the ~~Certifyingcertifying~~ State ~~Agencyageney~~ shall deem the provider to be in compliance with the following Sections of this Part:
- 1) Section 132.65;
 - 2) Section 132.70(a) and (b);
 - 3) Section 132.85(a)(1) through (a)(6) and (a)(8), (b)and (e);

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- 4) Section 132.95 (a) and (d) through (f) and (h);
 - 5) Section 132.100(a) through (h) and (k) through (m); and
 - 6) Section 132.145(f).
- c) Demonstration of current accreditation status shall be achieved by submission of a certificate of accreditation and the most recent accreditation report by the provider to the Certifying State Agency.
- d) If the provider's accreditation status changes for any reason, the provider shall notify the Certifying State Agency of that change within 30 days after the effective date of the change. A provider who fails to notify the Certifying State Agency of a change in accreditation may have its certification revoked pursuant to Section 132.50.
- e) Deemed status may be nullified by a finding by the Certifying State Agency that the provider is non-compliant with one or more of the Sections identified in subsections (b)(1) through (b)(6) of this Section.
- f) If a provider is accredited, on-site inspections may not be required for recertification purposes, with the exception of sites offering residential services. Sites offering residential services are subject to an on-site inspection for recertification. The provider shall be in good standing with the accrediting organization and shall be in compliance with Section 132.90 at the time of recertification. All new sites shall be required to undergo on-site inspections.
- g) If a certified site is licensed by DCFS as a child care institution or group home, an on-site inspection of that site may not be required for recertification purposes. The site must be in good standing with DCFS and must be in compliance with Section 132.90 at the time of recertification. All new sites shall be required to undergo on-site inspection.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.95 Utilization Review

The provider shall have a written utilization review (UR) plan and ongoing activities to assess the appropriateness of Medicaid community mental health services, intensity/level of services,

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and continued services for the client. Such services may be subject to utilization management parameters established by the public payer. These parameters may include, but not be limited to, the volume of service delivered to a single client over a fixed period of time or significant changes in volume of service billed by a specific provider. The written UR plan shall address:

- a) The methods and procedures for performing and recording individual case reviews by persons not involved in providing services to the clients whose records are reviewed;
- b) The authority and functions of the individual case review designated unit, which may be:
 - 1) A representative committee, chaired by a QMHP, and including QMHPs, MHPs, and RSAs; or
 - 2) A QMHP;
- c) Procedures describing the method for selecting cases for quarterly case review and the procedures for reviewing 10 percent of the clients served under this Part annually;
- d) Procedures to ensure that the review includes and summarizes the client's progress over the previous 90 days;
- e) Policies and procedures for documenting and reporting individual case reviews findings, determinations and recommendations to the supervising QMHP and, if applicable, the billing department;
- f) Procedures for appeal by clients and staff affected by the UR decisions with which they disagree;
- g) Provisions for ensuring confidentiality of individual case reviews, determinations, results and/or recommendations in accordance with the Confidentiality Act and HIPAA; and
- h) Procedures for following up on case review recommendations.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.100 Clinical Records

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The client's clinical record shall contain, but is not limited to the following:

- a) Identifying information, including client's name, Medicaid recipient identification number, address and telephone number, gender, date of birth, primary language or method of communication (e.g., Spanish, American Sign Language, communication board), name and phone number of emergency contact, date of initial contact and initiation of mental health services, third party insurance coverage, marital status, and source of referral;
- b) Documentation of consent for or refusal of mental health services;
- c) Assessment and reassessment reports;
- d) A single consolidated current ITP within a provider organization. The ITP must be current;
- e) Admission Note, if applicable;
- f) Documentation concerning the prescription and administration of psychotropic medication as specified in Section 132.150(~~de~~)(1);
- g) Documentation of missed appointments;
- h) Documentation of client referral or transfer during any active service period to or from the provider's programs or to or from other providers;
- i) Documentation to support services provided for which reimbursement is claimed shall be in the format specified by the public payer (~~format is defined as such items as individual event notes, monthly summary notes, shift treatment summaries and weekly summary notes~~), shall be legible and shall include, but not limited to, the following elements:
 - 1) The specific service, including whether the service was rendered in a group, individual or family setting and a note in the periodic report indicating the specific Part 132 mental health services billed by name or code;
 - 2) The date the service was provided;

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- 3) The start time and duration for each service. ~~Examples of acceptable documentation include monthly or weekly summary notes or shift summaries;~~
 - 4) The setting where services were rendered; and
 - 5) Written documentation describing the interaction that occurred during service delivery, including the client's response in relation to the goals in the ITP.
- j) Comprehensive mental health services and short-term diagnostic mental health services shall be documented:
- 1) According to subsection (i) of this Section; and
 - 2) On a daily basis by completion of shift treatment summaries and other service documentation.
 - A) Shift treatment summaries may only be used to document community support residential services ~~therapeutic behavioral services and activity therapy~~;
 - B) Shift treatment summaries shall be completed according to subsection (i); and
 - C) Shift treatment summaries shall include the client's general level of role functioning over the period being documented;
- k) ITP reviews describing the client's overall progress;
- l) A written record of the client's major accidents or incidents that occur at the site with regard to a specific client, whether self-reported or observed, and resulting in an adverse change in the client's physical or mental functioning; and
- m) Discharge summary documenting the outcome of treatment and, as necessary, the linkages for continued services.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART C: MENTAL HEALTH SERVICES

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Section 132.145 General Provisions

A provider shall comply with the following:

- a) A provider shall, at a minimum, directly provide mental health assessment, ITP development, review, modification (see Section 132.148(c)) and at least one additional Part 132 mental health service. Directly provided means that the QMHP and LPHA who signed the mental health assessment and ITP are employed by or contractual employees of the provider. The public payer may waive the requirement of at least one additional Part 132 mental health service if it deems that such waiver increases the availability of mental health services to Medicaid-eligible clients.
- b) A provider may subcontract for services authorized by this Part. There shall be a written agreement between the provider and the subcontractor that defines their contractual agreement and assures the subcontractor's compliance with applicable service provisions of Subpart C. All subcontractors must be certified to participate in the Illinois Medicaid program and enrolled as a provider with HFSDPA. All subcontracts must be approved by and on file with the certifying State agency and, when applicable, the public payer. For purposes of this subsection, an employee or contractual employee is not considered to be a subcontractor.
- c) Unless specified otherwise, services under this Part shall be provided to clients with a diagnosis of mental illness as defined in Section 132.25 and whose level of role functioning, in the absence of treatment or medication, is impaired. The provision of mental health services is expected to result in an improvement or prevention of regression in the client's existing condition.
- d) Consent
 - 1) Prior to the initiation of mental health services, the provider shall obtain written or oral consent from the client and the client's parent or guardian, as applicable.
 - 2) Consent must be given by the parent or guardian for a child under 12 years of age, except a child 12 through 17 years of age ~~to 18~~ can consent to treatment for 5 sessions.

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- 3) If the client is determined to be in need of crisis intervention services, or if the assessment is court ordered for the client, consent is not required.
 - 4) Legally competent adults who participate in treatment services are deemed to have consented.
 - 5) Oral consent shall also be documented in the record.
- e) An LPHA shall provide the clinical direction and determination of medical necessity of mental health services as documented by his/her dated signature on the mental health assessment and ITP.
- f) When discharging a client from services, the provider shall ensure the continuity and coordination of services as provided in the client's ITP. The provider shall:
- 1) Communicate, consistent with the requirements of Section 132.142, relevant treatment and service information prior to or at the time that the client is transferred to a receiving program of the provider or is terminated from service and referred to a program operated by another service provider, if the client, or parent or guardian, as appropriate, provides written authorization; and
 - 2) Document in the client's record the referrals to other human service providers and follow-up efforts to link the clients to services.
- g) Services provided under this Part are subject to the provisions of an executed contract between the provider and the public payer. The public payer is not required to reimburse services under this Part not enumerated in the contract.
- ~~h) Services under this Part, provided in or from a provider site that is not certified at the time that the services are delivered, is not required to be reimbursed by any public payer.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.148 Evaluation and Planning

- a) Mental health assessment is a formal process of gathering information regarding a client's mental and physical status and presenting problems through face-to-face, video conference or telephone contact with the client and collaterals, resulting in

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the identification of the client's mental health service needs and recommendations for service delivery. A diagnosis of mental illness is not required prior to beginning a mental health assessment.

- 1) A mental health assessment is required prior to the development and implementation of an ITP. A mental health assessment is not required prior to the initiation of crisis services described in Section 132.150(b) and case management services described in Section 132.165(a)(1).
- 2) A written mental health assessment report shall be a compilation of the following:
 - A) Identifying information: name, gender, date of birth, primary method of communication;
 - B) Extent, nature, and severity of presenting problems;
 - C) DSM-IV diagnosis;
 - ~~D)~~E) Family history, including the history of mental illness in the family;
 - ~~E)~~D) Mental status evaluation, including, at a minimum, attention, memory, information, attitudes, perceptual disturbances, thought content, speech, affect, suicidal or homicidal ideation, and an estimation of the ability and willingness to participate in treatment;
 - F) Client preferences relating to services and desired treatment outcomes;
 - ~~G)~~E) Personal history, including mental illness and mental health treatment;
 - ~~H)~~F) History of abuse/trauma (childhood sexual or physical abuse, intimate partner violence, sexual assault or other forms of interpersonal violence);
 - ~~I)~~G) Present level of functioning, including social adjustment and daily living skills;

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- ~~J)H~~ Legal history and status, including guardianship and current court involvement;
- ~~K)H~~ Assessment of risk, including the identification of factors that may endanger either the client or the client's family and other immediate threats to the client's personal safety (e.g., gang involvement, domestic violence, elder abuse)~~Immediate threat to personal safety (e.g., gang involvement, domestic violence, elder abuse);~~
- ~~L)H~~ Education, specialized training, and vocational skills;
- ~~M)K~~ Employment history;
- ~~N)L~~ Interests, activities and hobbies;
- ~~O)M~~ History of current alcohol or other substance use, abuse or dependence;
- ~~P)~~ Name and contact information of the client's primary care physician;
- ~~Q)N~~ Previous and current psychotropic medications, including date of most recent psychiatric evaluation;
- ~~R)O~~ General physical health, including date of last physical examination, any known symptoms or complaints, and current medications not noted in subsection (a)(2)(~~Q~~N), including over-the-counter medications;
- ~~S)P~~ Resources such as family, community, living arrangements, religion, and personal client strengths; and
- ~~T)Q~~ Summary analysis, conclusions and recommendations for specific Part 132 services.

- 3) Only for comprehensive mental health services (see Section 132.150(~~n~~h)) or short-term diagnostic and mental health services (see Section 132.150(~~o~~m)), an admission note may be used to initiate services prior to the completion of a mental health assessment. An Admission Note must

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be completed within 24 hours after a client's admission and is effective for a maximum of 30 days.

- A) The Admission Note is a written report of an initial assessment and treatment plan and shall include the following:
- i) Identifying information: name, gender, date of birth, primary language or method of communication, date of initiating assessment;
 - ii) Client's current mental health functioning level;
 - iii) Provisional diagnosis;
 - iv) Pertinent history;
 - v) Precautions (e.g., suicidal risk, homicidal risk, flight risk) and special programming to meet the client's needs;
 - vi) Initial treatment plan, including a list of Part 132 services that will be provided and the staff responsible for those services; and
 - vii) Other relevant information.
- B) An Admission Note shall be completed by at least an MHP following a face-to-face or video conference meeting with the client.
- C) A QMHP shall be responsible for approving the completed Admission Note as documented by the QMHP's dated signature on the Admission Note.
- 4) For comprehensive mental health services or short-term diagnostic and mental health services, a mental health assessment report shall be completed within 30 days after a client's admission. The provider shall complete a mental health assessment report within 30 days after a client's admission to comprehensive mental health services or short-term diagnostic and mental health services when an admission note was completed to initiate services. For all other Part 132 services, the provider

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shall complete a mental health assessment report within 30 days after the first face-to-face contact.

- 5) A QMHP who has had, at a minimum, one face-to-face or video conference contact with the client shall be responsible for the completed mental health assessment report as documented by his/her dated signature on the mental health assessment. ~~The State agency may waive this requirement in a specialized substitute care living arrangement to allow staff possessing a master's degree in human services or a bachelor's degree and 5 years of human services experience to have face to face or video conference contact with the client and be responsible for a completed mental health assessment report.~~ MHPs may participate in the mental health assessment.
 - 6) The client's family or guardian may participate in the mental health assessment during which the family will be given the opportunity to provide pertinent information or support. Participation by the family and other interested persons must be in accordance with the Confidentiality Act and HIPAA.
 - 7) The mental health assessment report shall be reviewed and approved by the LPHA as documented by the LPHA's dated signature on the mental health assessment. The LPHA shall determine in writing if any additional evaluations are required to assess the client's functioning or service needs.
 - 8) The mental health assessment shall be updated annually by the QMHP and the LPHA shall review and approve the assessment as documented by the LPHA's dated signature on the updated mental health assessment.
 - 9) The annual update of the mental health assessment shall minimally include all requirements specified under Section 132.148(a)(2) with the exception of requirements listed under subsections (a)(2)(A), (D), (G) and (H). Providers may include requirements under subsections (a)(2)(A), (D), (G) and (H) as medically necessary and clinically indicated as part of the mental health assessment update. Providers may also indicate "no change" where applicable on the mental health assessment update if there has been no change in status.
- b) A psychological evaluation, if recommended, shall:

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- 1) Be conducted within 90 days after completion of the ITP and documented by the provider consistent with the Clinical Psychologist Licensing Act [225 ILCS 15] using nationally standardized psychological assessment instruments; a master's level professional may assist;
 - 2) Be conducted face-to-face or video conference with the client; and
 - 3) Result in a written report that includes a formulation of problems, tentative diagnosis and recommendations for treatment or services.
- c) Treatment plan development, review and modification is a process that results in a written ITP, developed with the participation of the client and the client's parent/guardian, as applicable, and is based on the mental health assessment report and any additional evaluations. Participation by the client or parent/guardian shall be documented by the client's or parent's/guardian's signature on the ITP. Participation by the client or parent/guardian shall be documented by the client's or parent's/guardian's signature on the ITP. In the event that a client or a client's parent/guardian refuses to sign the ITP, the LPHA or QMHP shall document the refusal and indicate by his or her dated signature on a progress note that the ITP was reviewed with the client and that the client or his or her parent/guardian refused to sign the ITP. If there is no signature on the ITP, there must be a note in the record documenting participation.
- 1) The ITP shall be completed within 45 days after the completion of the mental health assessment as documented by the LPHA's dated signature on the ITP. Providers of comprehensive mental health services or short-term diagnostic and mental health services must complete an ITP within 30 days after a client's admission to the program when an Admission Note was completed to initiate services.
 - 2) A written ITP is a compilation of the following:
 - A) The goals of services;
 - B) Intermediate objectives to achieve the goals;
 - C) The specific Part 132 mental health services to be provided;
 - D) The frequency of Part 132 services to be provided for those services for which the LPHA determines frequency must be specified; and

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- E) Staff responsible for delivering services.
- 3) The ITP shall include a definitive diagnosis that has been determined for all five axes in the using the DSM-IV or the ICD-9-CM. If the diagnosis cannot be determined by the time the ITP is completed or a rule out diagnosis is given, the client's clinical record must contain documentation as to what evaluations will occur in order to provide a definitive diagnosis in the ITP. A diagnosis shall be determined within 90 days and the ITP shall be modified to reflect the diagnosis, as necessary.
- 4) Responsibility for development of the ITP shall be assumed by a QMHP as documented by his/her dated signature on the ITP. MHPs may participate in the development of the ITP. An LPHA shall provide the clinical direction of mental health services identified in the ITP as documented by his/her dated signature on the ITP.
- 5) The LPHA and the QMHP shall review the ITP with the client or the client's parent/guardian no less than once every 6 months and modify the ITP as necessary, as documented by the their dated signatures of the LPHA, QMHP and client or parent/guardian on the ITP or ITP update document. In the event that a client or a client's parent/guardian refuses to sign the ITP, the LPHA or QMHP shall document the refusal and indicate by his or her dated signature on a progress note that the ITP was reviewed with the client and that the client or his or her parent/guardian refused to sign the ITP. The State agency may authorize the staff in a specialized substitute care living arrangement to allow a QMHP to review the ITP at 6 months and modify the ITP as necessary, as documented by the QMHP's dated signature. The LPHA and QMHP shall sign and date the annual review of the ITP and any modifications associated with the review.
- 6) The ITP review shall include continuity of care planning with the client or the client's parent/guardian. The ITP review shall also include an estimated discharge date and identify goals for disposition.
- 7) ~~6~~) The results of crisis assessments, reassessments or additional evaluations after the client's ITP is completed shall be incorporated into a modified ITP, if appropriate, within 30 days.

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- ~~8)7)~~ The provider shall explain to the client and the client's parent/guardian, as applicable and as evidenced by a signed and dated statement by the provider and the client or parent/guardian, the process for the development, review and modification of the contents of the ITP. The ITP shall be developed, reviewed and modified with the participation of the client and the client's parent/guardian, as applicable.
- ~~9)8)~~ The ITP and all its revisions shall be signed by the parent or guardian if the client is under 12 years of age. If the client is 12 through 17 years of age, the ITP shall be signed by the client and by the parent/guardian, as applicable, unless the client is an emancipated minor. A client 18 years of age or older or an emancipated minor shall sign the ITP. If the client is 18 years of age or older and has been adjudicated as legally ~~incapable~~~~disabled~~, the ITP shall be signed by the legally appointed guardian. In the event that a client or a client's parent/guardian refuses to sign the ITP, the LPHA or QMHP shall document the refusal and indicate by his or her dated signature on a progress note that the ITP was reviewed with the client and that the client or his or her parent/guardian refused to sign the ITP. ~~If the client or parent/guardian refuses to sign the ITP, the provider shall document and date the refusal on the ITP.~~
- ~~10)9)~~ A copy of the signed ITP shall be given to the client, if not clinically contraindicated, and the client's parent/guardian, as applicable. The ITP and documentation that the signed ITP has been provided to the client or parent/guardian, or proof of clinical contraindication, shall be incorporated into the client's clinical record.
- ~~11)10)~~ Commencement of Services
- A) Mental health services may be provided concurrently with ITP development if:
- i) The mental health assessment report is completed, signed and dated by the LPHA or the Admission Note is signed and dated by the QMHP; ~~and~~
- ii) The service is recommended as medically necessary on the completed mental health assessment; and

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~~iii)~~ The services provided are included in the completed ITP, signed by an LPHA within the designated time frame.

- B) If services are provided prior to completion of the ITP, and the client terminates services before the ITP is completed and signed, the provider must complete the ITP and document that the client terminated services and was unavailable to sign the ITP.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.150 Mental Health Services

- a) All services defined in this Section shall be provided and terminated in accordance with the following criteria unless exceptions are noted:
- 1) The services shall be provided:
 - A) Following a mental health assessment or Admission Note, as applicable, and consistent with the client's ITP or Admission Note, as applicable;
 - B) Through face-to-face, video conference or telephone contact;
 - C) To clients and their families, at the client's request or agreement; with groups of clients; or with the client's family as it relates to the primary benefit and well being of the client and when related to an assessed need and goal on the client's ITP; and
 - D) Services may be provided on- or off-site, as indicated under the specific service.
 - 2) Service termination criteria shall include:
 - A) Determination that the client's acute symptomatology has improved and improvement can be maintained;
 - B) Determination that the client's level of role functioning has significantly deteriorated to a degree where referral or transfer to a more intensive mental health treatment is indicated; or

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- C) Documentation in the client's clinical record that the client terminated participation in the program.
- b) Crisis intervention services are activities to stabilize a client in a psychiatric crisis to avoid more restrictive levels of treatment and that have the goal of immediate symptom reduction, stabilization and restoration to a previous level of role functioning. A crisis is defined as a deterioration in the level of role functioning of the client within the past 7 days or an increase in acute symptomatology.
- 1) Crisis intervention services shall be provided to clients who are experiencing a psychiatric crisis and acute symptomatology. For a child or adolescent, a crisis may include events that threaten safety or functioning of the client or extrusion from the family or the community. Children in psychiatric crisis who are believed to be in need of admission to a psychiatric inpatient facility and for whom public payment may be sought shall be provided with crisis intervention pre-hospitalization screening. The child shall be screened for inpatient psychiatric admission and shall have his or her mental health needs assessed, according to the requirements of the SASS (Screening, Assessment and Support Services) Program (59 Ill. Adm. Code 131).
 - 2) Crisis intervention services may be provided prior to a mental health assessment and prior to a mental health diagnosis.
 - 3) Crisis intervention services shall include an immediate preliminary assessment that includes written documentation in the clinical record of presenting symptoms and recommendations for remediation of the crisis. Crisis intervention services may also include, if appropriate, brief and immediate mental health services or referral, linkage and consultation with other mental health services.
 - 4) The preliminary assessment shall be incorporated into the mental health assessment and ITP, as applicable.
 - 5) Crisis intervention services shall be delivered by at least an MHP with access to a QMHP who is available for immediate consultation and clinical supervision.
 - 6) During regular hours of operation, the provider shall be able to provide immediate face-to-face or video conference crisis intervention services.

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Outside regular hours of operation, the provider shall be able to provide, at a minimum, crisis assessment and referral to mental health services, as necessary.

- c) Client-centered consultation services are individual client-focused professional communications among provider staff, or staff of other agencies, or with others, including family members, who are involved with providing services to a client.
- 1) Services may consist of:
 - A) A meeting or conference for professional communication among provider staff, staff of other agencies, and child care systems, including school personnel or other professionals involved in the treatment process.
 - B) A meeting or conference for professional communication between provider staff and family members involved in the treatment process.
 - 2) Services must be provided in conjunction with one or more mental health services identified in this Section and in accordance with the ITP.
 - 3) Client-centered consultation does not include advice given in the course of clinical staff supervisory activities, in-service training, treatment planning or utilization review and may not be billed as part of the assessment process.
- d) Psychotropic medication services
- 1) Documentation requirements
 - A) If prescribed by a physician or an advanced practice nurse, employed by or on contract with the provider, there shall be evidence that psychotropic medication has been prescribed by the physician or advanced practice nurse per the collaborative agreement that includes physician-delegated prescription authority.
 - B) If a physician is employed by or on contract with the provider, there shall be evidence that psychotropic medication is reviewed at least every 90 days by a physician or advanced practice nurse.

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- C) Notations shall be made in the client's clinical record regarding psychotropic medication and other types of medication. Notations shall include:
- i) All medication being taken by the client;
 - ii) Current psychotropic medication: name, dosage, frequency and method of administration;
 - iii) Any problems with psychotropic medication administration and activities implemented to address these problems;
 - iv) A statement indicating that the client has been informed of the purpose of the psychotropic medication ordered and the side effects of the medication; and
 - v) Assessment of the client's ability to self-administer medications.
- 2) Psychotropic and other medication shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security and in accordance with Department of Public Health's rules at 77 Ill. Adm. Code 300.1640.
- 3) Services shall be provided face-to-face.
- 4) Psychotropic medication administration
- A) Psychotropic medication administration consists of preparing the client and the medication for administration, administering psychotropic medications, observing the client for possible adverse reactions, and returning the medication to proper storage.
 - B) Psychotropic medication shall be administered by personnel licensed to administer medication pursuant to the Nursing and Advanced Practice Nursing Act [225 ILCS 65] or the Medical Practice Act of 1987 [225 ILCS 60].
- 5) Psychotropic medication monitoring

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- A) Psychotropic medication monitoring includes observation and evaluation of target symptom response, adverse effects, including tardive dyskinesia screens, and new target symptoms or medication. This may include discussing laboratory results with the client.
 - B) Psychotropic medication monitoring shall be provided by staff designated in writing by a physician or advanced practice nurse per the collaborative agreement. The authorized staff shall not provide the service prior to the date of the signature.
- 6) Psychotropic medication training
- A) Psychotropic medication training includes training the client or the client's family or guardian to administer the client's medication, to monitor proper levels and dosage, and to watch for side effects.
 - B) Psychotropic medication training shall be provided by staff designated in writing by a physician or an advanced practice nurse per the collaborative agreement.
 - C) Psychotropic medication training shall be provided to clients in the following areas:
 - i) Purpose of taking psychotropic medications;
 - ii) Psychotropic medications, effects, side effects and adverse reactions;
 - iii) Self-administration of medications;
 - iv) Storage and safeguarding of medications;
 - v) Communicating with professionals regarding medication issues; or
 - vi) Communicating with family/caregivers regarding medication issues.

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D) Services may be provided individually or in a group setting.

~~ed)~~ Therapy/counseling is a treatment modality using face-to-face interaction to promote emotional, cognitive, behavioral or psychological changes as identified in the ITP. Therapy/counseling intervention utilizes psychotherapy theory and techniques in which a staff person meets with a client in ongoing periodic formal sessions with the goal of ameliorating or reducing the symptoms associated with his/her emotional, cognitive or behavioral problems.

1) Therapy/counseling services may be provided to:

A) An individual client;

B) A group of 2 or more clients; or

C) A family, including parents, spouses and siblings (client need not be present).

2) Therapy/counseling services shall be provided by at least an MHP.

3) Examples of therapy/counseling include:

A) Cognitive behavioral therapy;

B) Functional family therapy;

C) Motivational enhancement therapy;

D) Trauma counseling;

E) Anger management; and

F) Sexual offender treatment.

~~e)~~ ~~Skills training and development are structured services that are goal directed, clearly defined and focused on improving adaptive functioning deficits.~~

~~1)~~ ~~Examples of this service may include such activities as:~~

~~A) a series of sessions with modules focused on different components~~

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- ~~of social competency, anger management, problem solving and decisionmaking and the ability to live independently;~~
- ~~B) time spent implementing a structured method of behavior management such as a point system; and~~
 - ~~C) supervised activities that are intended to improve adaptive functioning in a specific area that are preceded by explicitly detailing the expectations for involvement in the activity and followed by a review of what actually occurred.~~
- 2) ~~For children and adolescents only, skills training and development can include therapeutic support to facilitate improved functioning through normalizing in-home and in-community activities.~~
 - 3) ~~Services shall be provided on a face to face or video conference basis individually or in a group setting with the client or client's family.~~
 - 4) ~~Services shall be provided by at least an MHP.~~
- f) ~~Therapeutic behavioral services are direct interactions with the client, or on behalf of the client with a member of the client's family, with such interactions intended to result in improving or maintaining the client's ability to function in a variety of interpersonal situations, including in the family, school or community.~~
- 1) ~~Examples of this service include:~~
 - ~~A) in a residential setting, milieu-based interventions related to goals defined in the ITP and group meetings such as organizational meetings at the beginning and end of the day and self-governance meetings only when the QMHP, MHP or RSA is present;~~
 - ~~B) behavior management and problem-solving;~~
 - ~~C) ITP-specified facilitation of competency in areas such as interpersonal communication, dating and sexual appropriateness, peer or sibling interactions, self-regulating behavior, problem-solving, parent/child communication and interaction, self-care and hygiene, use of public transportation, money management, cooking, and home improvement.~~

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- 2) ~~Services may be provided individually or in a group setting with the client or the client's family.~~
 - 3) ~~Therapeutic behavioral services provided in a group setting shall be provided with a staff to client ratio of no more than 1:15.~~
 - 4) ~~Services shall be provided by at least an RSA.~~
- f) Community Support – Individual (CSI)
- 1) Community Support – Individual services are mental health rehabilitation services and supports for children, adolescents, families and adults necessary to assist clients in achieving and maintaining rehabilitative, resiliency and recovery goals. The service consists of therapeutic interventions that facilitate illness self-management, skill building, identification and use of natural supports, and use of community resources.
 - 2) Service Activities and Interventions shall include:
 - A) Coordination and assistance with the identification of individual strengths, resources, preferences and choices;
 - B) Assistance with the identification of existing natural supports for development of a natural support team;
 - C) Assistance with the development of crisis management plans;
 - D) Assisting with the identification of risk factors related to relapse and development of relapse prevention plans and strategies;
 - E) Support and promotion of client self-advocacy and participation in decision making, treatment and treatment planning;
 - F) Assisting the client to build a natural support team for treatment and recovery;

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- G) Support and consultation to the client or his/her support system that is directed primarily to the well-being and benefit of the client; and
 - H) Skill building in order to assist the client in the development of functional, interpersonal, family, coping and community living skills that are negatively impacted by the client's mental illness.
 - 3) Program requirements
 - A) CSI services shall be provided face-to-face, by telephone or by video conference.
 - B) A minimum of 60% of all Community Support – Individual services must be delivered in natural settings and out of the provider's offices. This requirement will be monitored in the aggregate for a provider for an identified billing period but will not be required for each individual.
 - C) CSI services shall occur during times and at locations that reasonably accommodate the client's needs for services in community locations and other natural settings, and at hours that do not interfere with the client's work, educational and other community activities.
 - 4) Staffing requirements
CSI services shall be delivered by at least an RSA.
 - 5) Service exclusions
CSI is an integral part of ACT and Community Support Team and shall not be considered a separate service for clients who receive ACT or CST. Limited amounts of CSI services may be provided on an individual basis as authorized by the public payer and in accordance with a treatment plan in order to facilitate transition to and from the ACT or CST.
- g) Community Support – Group (CSG)
 - 1) Community Support – Group services consist of mental health rehabilitation services and supports for children, adolescents, families and adults necessary to assist a group of clients to achieve and maintain

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rehabilitative, resiliency and recovery goals. The service consists of therapeutic interventions delivered by individuals or multidisciplinary teams that facilitate illness self-management, skill building, identification and use of natural supports, and use of community resources.

- 2) Service Activities and Interventions shall include those activities and interventions described in subsection (f)(2).
- 3) Program requirements
 - A) CSG services shall be provided face-to-face in group settings ranging in size from 2 to 15 clients;
 - B) A minimum of 60% of all Community Support Group services must be delivered in natural settings and out of the provider's offices. This requirement will be monitored in the aggregate for a provider for an identified billing period, but will not be required for each individual client.
 - C) CSG services shall occur during times and at locations that reasonably accommodate the client's needs for services in community locations and other natural settings and at hours that do not interfere with the client's work, educational and other community activities.
- 4) Staffing requirements

CSG services shall be delivered by at least an RSA.
- 5) Service exclusions

CSG services is an integral part of ACT and shall not be considered a separate service for clients who receive ACT. Limited amounts of CSG services may be provided on an individual basis as authorized by the public payer in accordance with a treatment plan in order to facilitate transition to and from the ACT.
- h) Community Support – Residential (CSR)
 - 1) Community Support – Residential services consist of mental health rehabilitation services and supports for children, adolescents and adults necessary to assist individuals in achieving and maintaining rehabilitative,

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resiliency and recovery goals. The service consists of therapeutic interventions that facilitate illness self-management, skill building, identification and use of natural supports, and use of community resources for individuals who reside in sites designated by the public payer.

- 2) Service Activities and Interventions shall include those activities and interventions described in subsection (f)(2).
 - 3) CSR services shall be provided face-to-face, by telephone or by video conference in group or individual settings.
 - 4) Eligibility criteria: Individuals eligible for CSR shall include individuals whose mental health needs require active assistance and support to function independently as developmentally appropriate within home, community, work and/or school settings and who are in public payer designated residential settings.
 - 5) Staffing requirements
CSR services shall be delivered by at least an RSA.
 - 6) Service exclusions
Many CSR activities are an integral part of ACT and CST and shall not be considered a separate service for clients who receive ACT or CST. Limited amounts of CSR services may be provided on an individual basis as authorized by the public payer and in accordance with a treatment plan in order to facilitate transition to and from the ACT or CST or while a client is receiving residential services to stabilize a crisis.
- i) Community Support – Team (CST)
- 1) Community Support – Team services consist of mental health rehabilitation services and supports available 24 hours per day and 7 days per week for children, adolescents, families and adults to decrease hospitalization and crisis episodes and to increase community functioning in order for the client to achieve and maintain rehabilitative, resiliency and recovery goals. The service consists of therapeutic interventions delivered by a team that facilitates illness self-management, skill building, identification and use of natural supports, and use of community resources.

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- 2) Service Activities and Interventions shall include those activities and interventions described in subsections (e) and (f)(2).
- 3) Program requirements
 - A) CST services shall be provided face-to-face, by telephone or by video conference to an individual or family member;
 - B) A minimum of 60% of all Community Support Team services must be delivered in natural settings and out of the provider's offices. This requirement will be monitored in the aggregate for a provider for an identified billing period, but will not be required for each individual client;
 - C) CST services shall occur during times and at locations that reasonably accommodate the client's needs for services in community locations and other natural settings and at hours that do not interfere with the client's work, educational and other community activities;
 - D) CST shall maintain a client-to-staff ratio of no more than 18 clients per full time equivalent staff;
 - E) Documentation shall demonstrate that more than one member of the team is actively engaged in the direct service to the individual.
- 4) Eligibility criteria

Individuals eligible for CST services are those who require team-based outreach and support for their moderate to severe mental health symptoms and who, with such coordinated clinical and rehabilitative support, may access and benefit from a traditional array of psychiatric services. A less intensive service must have been tried and failed or must have been considered and found inappropriate at this time, and the individual must exhibit 3 or more of the following:

 - A) Multiple and frequent psychiatric inpatient readmissions, including long-term hospitalization;
 - B) Excessive use of crisis/emergency services with failed linkages;

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- C) Chronic homelessness;
 - D) Repeat arrest and re-incarceration;
 - E) History of inadequate follow-through with elements of an ITP related to risk factors, including lack of follow-through, taking medications, following a crisis plan, or maintaining housing;
 - F) High use of detoxification services (e.g., 2 or more episodes per year);
 - G) Medication resistance due to intolerable side effects or the individual's illness interfering with consistent self-management of medications;
 - H) Child and/or family behavioral health issues that have not shown improvement in traditional outpatient settings and require coordinated clinical and supportive interventions;
 - I) Because of behavioral health issues, the child or adolescent has shown risk of out-of-home placement or is currently in out-of-home placement and reunification is imminent;
 - J) Clinical evidence of suicidal ideation or gesture in the last 3 months;
 - K) Ongoing inappropriate public behavior within the last 3 months, including public intoxication, indecency, disturbing the peace, etc.;
 - L) Self-harm or threats of harm to others within the last 3 months; or
 - M) Evidence of significant complications such as cognitive impairment, behavioral problems or medical problems.
- 5) There shall be documentation in the assessment or client record that the individual meets 3 of the above eligibility criteria.
- 6) Staffing requirements
CST services shall be delivered by:

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- A) A full-time team leader who is at least a QMHP and serves as the clinical and administrative supervisor of the team and also functions as a practicing clinician on the team;
- B) An RSA or MHP who works under the supervision of the QMHP and who works on the team in sufficient full-time equivalents to meet the required client-to-staff ratio;
- C) Preferably, one team member who is an individual in recovery; and
- D) No fewer than 3 full-time equivalent staff meeting the required team components (shall include the team leader).

7) Service exclusions
CST is an integral part of ACT and CSI and shall not be considered a separate service for clients who receive ACT and CSI. Limited amounts of CST services may be provided on an individual basis as authorized by the public payer and in accordance with a treatment plan in order to facilitate transition to and from the ACT or CSI.

ig) Assertive community treatment (ACT)

- 1) ACT is an intensive integrated rehabilitative crisis, treatment and rehabilitative support service for adults (18 years of age and older) provided by an interdisciplinary team to individuals with serious and persistent mental illness or co-occurring mental health and alcohol/substance abuse disorders. The service is intended to promote symptom stability and appropriate use of psychotropic medications, as well as restore personal care, community living and social skills.
~~ACT is a specialized model of treatment/services that provides an inclusive array of community based mental health services and supportive services for adults (18 years of age and older) with serious mental illness who have a history of high use of psychiatric hospitalization. It requires an integrated package of services, provided by a multi-disciplinary team over an extended duration.~~
- 2) Service Activities and Interventions
The ACT team shall assume responsibility for assisting the client to achieve improved community functioning by providing:

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- A) Comprehensive assessment;
 - B) Individualized treatment and recovery planning;
 - C) Service coordination;
 - D) Crisis assessment and intervention;
 - E) Symptom assessment and management;
 - F) Supportive counseling and psychotherapy;
 - G) Medication prescription, administration, monitoring and documentation;
 - H) Dual diagnosis substance abuse services;
 - I) Work and education related services;
 - J) Activities of daily living, including residential supports;
 - K) Social/interpersonal relationship and leisure time skill building;
 - L) Peer support services;
 - M) Environmental and other support services; and
 - N) Family psychoeducation.
- 3) Program requirements
- A) ACT shall be provided face-to-face, by telephone or by video conference.
 - B) ACT services shall be available 24 hours per day, 7 days per week, with emergency response coverage, including psychiatric coverage. Crisis services shall be available 24 hours per day, 7 days per week.

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- C) A minimum of 75% of all team contacts shall occur out of the office.
- D) A minimum of 3 contacts per week shall be provided to most ACT clients and all clients shall receive a minimum of 4 face-to-face contacts per month.
- E) The ACT team shall conduct organizational staff meetings at least 4 times per week at regularly scheduled times, according to a schedule established by the team leader.

42) Eligibility criteria

- A) Adults who require assertive outreach and support in order to remain connected with necessary mental health and support services and to maintain stable community living and who have not benefited from traditional services and modes of delivery as evidenced by any of the following Adult:
 - i) Multiple and frequent psychiatric inpatient readmissions; Three or more hospitalizations in a State-operated facility in the past 12 months;
 - ii) Excessive use of crisis/emergency services with failed linkages; Five or more hospitalizations in a State-operated facility in the past 24 months; or
 - iii) Chronic homelessness; A cumulative length of stay of at least 180 days in the past 12 months.
 - iv) Repeat arrests and incarcerations;
 - v) Client has multiple service needs requiring intensive assertive efforts to ensure coordination among systems, services and providers;
 - vi) Client exhibits functional deficits in maintaining treatment continuity, self-management of prescription medication, or independent community living skills; or

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~~management and compliance, providing training in obtaining medical services in emergencies and non-emergency situations.~~

5) Staff qualifications

~~The ACT team shall include a multi-disciplinary mix, including professionals in mental health and substance abuse treatment. The team shall include, at a minimum, a psychiatrist, a QMHP, and an MHP and may include RSAs. It is highly desirable to include a registered nurse (RN) and a certified alcoholism and other drug counselor, certified by the Illinois Alcohol and Other Drug Abuse Professional Association, Inc., and a vocational specialist as part of the team.~~

A) Each ACT team shall consist of at least 6 full-time equivalent staff. The psychiatrist and program assistant shall not be counted toward meeting the 6 full-time equivalent requirement. All teams are required to minimally consist of:

i) A full-time team leader who is the clinical and administrative supervisor of the teams and also functions as an ACT clinician. The team leader shall be a licensed clinician;

ii) A psychiatrist who works on a full or part-time basis for a minimum of 10 hours per week for every 60 enrolled clients. With a waiver by the public payer, an Advanced Practice Nurse may substitute for up to half of the psychiatrist's time;

iii) A full-time registered nurse who provides services to all ACT team enrollees and who works with the ACT team to monitor each client's clinical status and response to treatment. The registered nurse functions as a primary practitioner on each ACT team for a caseload of clients. For a period of 2 years following the adoption of this amendment, existing ACT providers may use an LPN with 2 years experience in mental health services as part of an ACT team. New ACT providers shall be required to utilize an RN on all ACT teams.

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- iv) Four rehabilitative services associates who work under the supervision of a licensed clinician and function as primary practitioners for a caseload of clients and who provide rehabilitation and support functions; and
 - v) A program/administrative assistant who is responsible for organizing, coordinating and monitoring all non-clinical operations of ACT.
- B) At least one of the members of the core team shall have special training and certification in substance abuse treatment and/or treating clients with co-occurring mental health and substance abuse disorders.
- C) At least one of the members of the team shall be an individual in recovery. This staff person is a fully integrated ACT team member who provides consultation to the ACT team and highly individualized services in the community, and who promotes self-determination and decision making.
- D) At least one member of the core team shall have special training in rehabilitation counseling, including vocational, work readiness and educational support.
- E) Each team shall be expected to maintain a staff to client ratio of no more than one full time equivalent staff per 10 clients, which shall not include the psychiatrist and program assistant. As the number of clients increase, ACT teams shall add staff to maintain the required ratio.
- 6) Services may be provided following a determination of eligibility for ACT services and may commence prior to the completion of a mental health assessment and the ITP when immediate assistance is needed to obtain food, shelter or clothing.
- 7) Case management is an integral part of ACT and shall not be considered a separate service.
- 8) ACT shall not be provided in combination with other Part 132 services, except under the following conditions:

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- A) In accordance with an ITP to facilitate transition to and from ACT services; and
- B) While a client is receiving community support residential services to stabilize a crisis.

k) Psychosocial Rehabilitation

- 1) Psychosocial rehabilitation services are facility-based rehabilitative skill-building services for adults age 18 and older with serious mental illness or co-occurring psychiatric disabilities and addictions. The focus of treatment interventions includes skill building to facilitate independent living and adaptation, problem solving and coping skills development. The service is intended to assist clients' ability to:
 - A) Live as independently as possible;
 - B) Manage their illness and lives with as little professional intervention as possible; and
 - C) Achieve functional, social, educational and vocational goals.
- 2) Psychosocial rehabilitation services shall include the following service interventions and activities to assist the client in achieving improved community functioning:
 - A) Individual or group skill building activities that focus on the development of skills to be used by clients in their living, learning, social and working environments, which includes skill development for:
 - i) Socialization, adaptation, problem solving and coping;
 - ii) Self-management of symptoms or recovery;
 - iii) Prevocational and work readiness; and
 - iv) Pre-educational and education readiness;

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- B) Cognitive behavioral intervention;
 - C) Interventions to address co-occurring psychiatric disabilities and substance use;
 - D) Promotion of self-directed engagement in leisure, recreational and community social activities; and
 - E) Client participation in setting individualized goals and assisting his or her own skills and resources related to goal attainment.
- 3) Program requirements
- A) Psychosocial rehabilitation services shall be provided in an organized program through individual and group interventions;
 - B) Psychosocial rehabilitation services shall be available at least 25 hours per week and on at least 4 days per week;
 - C) Services may be provided during day, evening and weekend hours;
 - D) Each psychosocial rehabilitation services provider shall designate a staff member to assist in assessing client needs and progress toward achievement of treatment goals and objectives.
- 4) Staff qualifications
- A) Each psychosocial rehabilitation program shall have a clinical supervisor or program director who is at least a QMHP;
 - B) PSR services shall be provided by at least an RSA;
 - C) The clinical supervisor or program director shall be on-site at least 50 percent of the time;
 - D) When the clinical supervisor is not physically on-site, the clinical supervisor or designated QMHP shall be accessible to psychosocial rehabilitation staff;

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- 4) ~~Services shall be provided on a face-to-face or video conference basis.~~
- li) Mental health intensive outpatient services are scheduled group therapeutic sessions made available for at least 4 hours per day, 5 days per week.
- 1) Mental health intensive outpatient services are for clients at risk of, or with a history of, psychiatric hospitalization who currently have ITP objectives to reduce or eliminate symptoms that have, in the past, led to the need for hospitalization.
- 2) Services shall be provided by at least a QMHP.
- 3) Mental health intensive outpatient services shall be provided with a staff to client ratio that does not exceed 1:8 for adults and 1:4 for children and adolescents. For purposes of this subsection (li) only, a child or adolescent is defined as any individual who is 17 years of age or younger.
- 4) Services shall be provided on a face-to-face or video conference basis.
- lj) ~~Activity therapy services are direct interactions with the client, or on behalf of the client with a member of the client's family, with such interactions intended to result in improving or maintaining the client's ability to function in a variety of interpersonal situations, including in the family, school or community. Activity therapy services may include activities using art, music, drama, play or recreation.~~
- 1) ~~Services may be provided individually or in a group setting with the client or the client's family.~~
- 2) ~~Services shall be provided by at least an RSA.~~
- 3) ~~Services shall be provided on a face-to-face or video conference basis.~~
- mk) Intensive family-based services are interactions with the client, or with a member of the client's family on behalf of the client, to restore the client to prior levels of functioning, to reduce the risk of more restrictive treatment for the client such as psychiatric hospitalization, to reduce the risk of alternative placement, or to avert a family crisis.
- 1) Intensive family-based services shall be provided only to a child or adolescent:

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- A) Who is served by a provider under contractual obligation to provide Screening, Assessment and Support Services (SASS), when such services have been authorized by the State's mental health crisis telephone line in accordance with the provisions of 59 Ill. Adm. Code 131 (Children's Mental Health Screening and Support Services Program); or
- B) For a child for whom DCFS is legally responsible who is served by a provider under contract with DCFS to provide, and be reimbursed for, this service.

- 2) Services shall be provided by at least an MHP.
- 3) Services shall be provided on a face-to-face or video conference basis.

nl) Comprehensive mental health services

- 1) Comprehensive mental health services are an array of services as described in [Subpart C this Section and Section 132.165](#) that have been approved by the public payer. One or more of these services is provided on a daily basis in order to restore or maintain the client's emotional or behavioral functioning to a level determined to be necessary for his/her successful functioning in a family, school, or community.
- 2) Comprehensive mental health services require that at least one of the allowable services in [Subpart C this Section or Section 132.165](#) is provided each day. Each service must be provided in accordance with the requirements of this Part for the respective service.
- 3) Comprehensive mental health services shall be provided by individuals possessing the required qualifications for each discrete service.

om) Short-term diagnostic and mental health services

- 1) Short-term diagnostic and mental health services are an array of services, as described in [Subpart C this Section and Section 132.165](#), that have been approved by the [public payer](#)~~State agency~~. One or more of these services is provided on a daily basis in order to assess, restore or maintain the client's emotional or behavioral functioning necessary to be at a level

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determined to be appropriate for his/her successful functioning in a family, school or community.

- 2) Short-term diagnostic and mental health services shall last no more than 45 days. One extension of an additional 45 days may be authorized, in writing, by an LPHA.
- 3) Short-term diagnostic and mental health services require that at least one of the allowable services in [Subpart C](#) ~~this Section or Section 132.165~~ be provided each day. Each service shall be provided in accordance with the requirements of this Part for the respective service.
- 4) Short-term diagnostic and mental health services shall be provided by individuals possessing the required qualifications for each discrete service.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 132.165 Case Management Services

- a) Mental health case management services include assessment, planning, coordination and advocacy services for clients who need multiple services and require assistance in gaining access to and in using mental health, social, vocational, educational, housing, public income entitlements and other community services to assist the client in the community. Case management activities may also include identifying and investigating available resources, explaining options to the client and linking them with necessary resources.
~~Mental health case management services provide coordination, support and advocacy for clients who need multiple services and require assistance in gaining access to and in using mental health, social, vocational, educational, child welfare, and other community services and resources. Case management also may include client-specific advocacy and assistance with problem solving/resolution to assist the client in building community support and family support systems, and mandated child welfare and juvenile justice activities.~~
- 1) ~~Case management activities may include assessing the need for services, identifying and investigating available resources, explaining options to the client, assisting in the application process, linking with necessary resources, and contacts between provider staff, staff of other agencies and child caring systems concerning the client's status and progress with regard to the ITP.~~

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- 2) ~~Examples of case management services may include such activities as:~~
- A) ~~helping the client access appropriate mental health services, apply for public entitlements, locate housing and obtain medical and dental care;~~
 - B) ~~contacts with State operated facilities or educational or medical systems;~~
 - C) ~~staffings with school personnel or other professionals involved in treatment;~~
 - D) ~~court appearances; and~~
 - E) ~~Administrative Care Reviews.~~
- 13) Mental health case management services shall be provided following a mental health assessment and be authorized consistent with the client's ITP, with the following exceptions:
- A) ~~Case management provided during the 30 days immediately preceding completion of the assessment. Immediate assistance is needed to obtain food, shelter or clothing;~~
 - B) The client has refused all other appropriate services under this Part, ~~or~~
 - C) ~~There are mandated child welfare or juvenile justice activities.~~
- 24) Mental health case management services shall be provided by at least an RSA.
- b) ~~Client centered consultation services are individual client focused professional communications between provider staff, or staff of other agencies, or with others, including family members, who are involved with providing services to a client.~~
- 1) ~~Services may include:~~

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- ~~A) A meeting or conference for professional communication among provider staff, staff of other agencies, and child care systems, including school personnel or other professionals involved in the treatment process.~~
 - ~~B) A meeting or conference for professional communication between provider staff and family members involved in the treatment process.~~
 - ~~2) Services must be provided in conjunction with one or more mental health services identified in this Section and in accordance with the ITP.~~
 - ~~3) Client-centered consultation does not include advice given in the course of clinical staff supervisory activities, in-service training, treatment planning or utilization review and may not be billed as part of the assessment process.~~
 - ~~4) Client-centered consultation services shall be provided by at least an RSA.~~
- be) Transition linkage and aftercare services shall be provided to assist in an effective transition in living arrangements consistent with the client's welfare and development. This includes discharge from inpatient psychiatric care (in [Institutions for Mental Diseases \(IMD\)](#), [general](#) hospitals and nursing facilities), transition to adult services, and assisting the client or the client's family or caretaker with the transition.
- 1) Transition linkage and aftercare services may consist of:
 - A) Planning with staff of a client's current or receiving living arrangements (including foster or legal parents as necessary);
 - B) Locating placement resources;
 - C) Arranging/conducting pre- or post-placement visits;
 - D) Developing an aftercare services plan; or
 - E) Planning a client's discharge and linkage from an inpatient psychiatric facility, [including an IMD or nursing facility](#), for continuing mental health services and community/family support.

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- 2) Transition linkage and aftercare services shall be provided by at least an MHP.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Aid to the Aged, Blind or Disabled
- 2) Code Citation: 89 Ill Adm. Code 113
- 3) Section Number: 113.264 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].
- 5) A Complete Description of the Subjects and Issues involved: Pursuant to provisions of P.A. 94-918, effective June 26, 2006, this rulemaking extends AABD cash eligibility until July 1, 2009, to persons who have been found ineligible for SSI due to the expiration of the seven years of federal eligibility for refugees, asylees, and certain other immigrants who are not yet citizens of the U.S.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor

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Springfield, Illinois 62762

(217) 785-9772

- 13) 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
- 14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: It was not anticipated by the Department when the two most recent regulatory agendas were published.

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

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113
AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

Section

- 113.1 Description of the Assistance Program
- 113.5 Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 113.9 Client Cooperation
- 113.10 Citizenship
- 113.20 Residence
- 113.30 Age
- 113.40 Blind
- 113.50 Disabled
- 113.60 Living Arrangement
- 113.70 Institutional Status
- 113.80 Social Security Number

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

- 113.100 Unearned Income
- 113.101 Budgeting Unearned Income
- 113.102 Budgeting Unearned Income of Applicants Receiving Income on Date of Application And/Or Date of Decision
- 113.103 Initial Receipt of Unearned Income
- 113.104 Termination of Unearned Income
- 113.105 Unearned Income In-Kind
- 113.106 Earmarked Income
- 113.107 Lump Sum Payments and Income Tax Refunds
- 113.108 Protected Income (Repealed)
- 113.109 Earned Income (Repealed)

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- 113.110 Budgeting Earned Income (Repealed)
- 113.111 Protected Income
- 113.112 Earned Income
- 113.113 Exempt Unearned Income
- 113.114 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
- 113.115 Initial Employment
- 113.116 Budgeting Earned Income For Contractual Employees
- 113.117 Budgeting Earned Income For Non-contractual School Employees
- 113.118 Termination of Employment
- 113.120 Exempt Earned Income
- 113.125 Recognized Employment Expenses
- 113.130 Income From Work/Study/Training Programs
- 113.131 Earned Income From Self-Employment
- 113.132 Earned Income From Roomer and Boarder
- 113.133 Earned Income From Rental Property
- 113.134 Earned Income In-Kind
- 113.139 Payments from the Illinois Department of Children and Family Services
- 113.140 Assets
- 113.141 Exempt Assets
- 113.142 Asset Disregard
- 113.143 Deferral of Consideration of Assets
- 113.154 Property Transfers For Applications Filed Prior To October 1, 1989 (Repealed)
- 113.155 Property Transfers For Applications Filed On Or After October 1, 1989 (Repealed)
- 113.156 Court Ordered Child Support Payments of Parent/Step-Parent
- 113.157 Responsibility of Sponsors of Non-citizens Entering the Country Prior to 8/22/96
- 113.158 Responsibility of Sponsors of Non-citizens Entering the Country On or After 08/22/96
- 113.160 Assignment of Medical Support Rights

SUBPART D: PAYMENT AMOUNTS

- Section
- 113.245 Payment Levels for AABD
- 113.246 Personal Allowance
- 113.247 Personal Allowance Amounts
- 113.248 Shelter
- 113.249 Utilities and Heating Fuel
- 113.250 Laundry

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113.251	Telephone
113.252	Transportation, Lunches, Special Fees
113.253	Allowances for Increase in SSI Benefits
113.254	Nursing Care or Personal Care in Home Not Subject to Licensing
113.255	Sheltered Care/Personal or Nursing Care in a Licensed Group Care Facility
113.256	Shopping Allowance
113.257	Special Allowances for Blind and Partially Sighted (Blind Only)
113.258	Home Delivered Meals
113.259	AABD Fuel and Utility Allowances By Area
113.260	Sheltered Care, Personal Care or Nursing Care Rates
113.261	Cases in Licensed Intermediate Care Facilities, Licensed Skilled Nursing Facilities, DMHDD Facilities and All Other Licensed Medical Facilities
113.262	Meeting the Needs of an Ineligible Dependent with Client's Income
113.263	Service Animals
113.264	Refugees Ineligible for SSI

SUBPART E: OTHER PROVISIONS

Section	
113.300	Persons Who May Be Included In the Assistance Unit
113.301	Grandfathered Cases
113.302	Interim Assistance (Repealed)
113.303	Special Needs Authorizations
113.304	Retrospective Budgeting
113.305	Budgeting Schedule
113.306	Purchase and Repair of Household Furniture (Repealed)
113.307	Property Repairs and Maintenance
113.308	Excess Shelter Allowance
113.309	Limitation on Amount of AABD Assistance to Recipients from Other States (Repealed)
113.320	Redetermination of Eligibility
113.330	Attorney's Fees for VA Appellants (Repealed)

SUBPART F: INTERIM ASSISTANCE

Section	
113.400	Description of the Interim Assistance Program
113.405	Pending SSI Application (Repealed)
113.410	More Likely Than Not Eligible for SSI (Repealed)
113.415	Non-Financial Factors of Eligibility (Repealed)

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- 113.420 Financial Factors of Eligibility (Repealed)
- 113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)
- 113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)
- 113.435 Medical Eligibility (Repealed)
- 113.440 Attorney's Fees for SSI Applicants (Repealed)
- 113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)
- 113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
- 113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III 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; emergency expired January 28, 1979; preemptory amendment at 2 Ill. Reg. 46, p. 44, 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; 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,

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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 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867, effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988;

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emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995; emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of a 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of

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150 days; emergency amendment at 23 Ill. Reg. 579, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1607, effective January 20, 1999; amended at 23 Ill. Reg. 5548, effective April 23, 1999; amended at 23 Ill. Reg. 6052, effective May 4, 1999; amended at 23 Ill. Reg. 6425, effective May 15, 1999; amended at 23 Ill. Reg. 6935, effective May 30, 1999; amended at 23 Ill. Reg. 7887, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8650, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10161, effective August 3, 1999; amended at 23 Ill. Reg. 13852, effective November 19, 1999; amended at 24 Ill. Reg. 2328, effective February 1, 2000; amended at 24 Ill. Reg. 11622, effective July 18, 2000; amended at 24 Ill. Reg. 13394, effective August 18, 2000; amended at 25 Ill. Reg. 5326, effective March 30, 2001; amended at 26 Ill. Reg. 179, effective January 1, 2002; amended at 26 Ill. Reg. 8532, effective May 31, 2002; amended at 26 Ill. Reg. 13521, effective September 3, 2002; amended at 27 Ill. Reg. 7252, effective April 7, 2003; amended at 28 Ill. Reg. 11139, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 11366, effective July 21, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12469, effective August 20, 2004, for a maximum of 150 days; emergency expired January 16, 2005; amended at 29 Ill. Reg. 648, effective December 16, 2004; amended at 29 Ill. Reg. 5703, effective April 11, 2005; amended at 29 Ill. Reg. 10176, effective July 5, 2005; amended at 30 Ill. Reg. 16065, effective September 21, 2006; amended at 31 Ill. Reg. _____, effective _____.

SUBPART D: PAYMENT AMOUNTS

Section 113.264 Refugees Ineligible for SSI

- a) Until July 1, ~~2009~~2006, an allowance not to exceed \$500 is authorized to be provided to persons who are ineligible for SSI due to the expiration of the period of eligibility for ~~certain noncitizens~~refugees and asylees pursuant to 8 USC 1612(a)(2).
- b) This group includes noncitizens who entered the U.S. under one of the following immigrant classifications:
- 1) Refugee admitted under section 207 of the Immigration and Nationality Act (8 USC 1157);
 - 2) Asylee admitted under section 208 of the Immigration and Nationality Act (8 USC 1158);
 - 3) Cuban/Haitian immigrant admitted under section 501(e) of the Refugee Education Assistance Act of 1980 (PL 96-422);

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- 4) Amerasian immigrant admitted under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Act) (as contained in section 101(e) of PL 100-202, as amended by PL 100-461); and
- 5) Deportation withheld under section 243(h) or section 241(b)(3) of the Immigration and Nationality Act (8 USC 1253).

c) No other allowances will be authorized.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

OFFICE OF THE STATE FIRE MARSHAL

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- 1) Heading of the Part: Small Equipment Grant Program.
- 2) Code Citation: 41 Ill. Adm. Code 291
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
291.10	New Section
291.20	New Section
291.30	New Section
291.40	New Section
291.50	New Section
291.60	New Section
291.70	New Section
- 4) Statutory Authority: Authorized by and implementing subsection 10 of Section 2 of the State Fire Marshal Act [20 ILCS 2905/2].
- 5) A Complete Description of the Subjects and Issues Involved: The subjects involved in this rulemaking are small equipment carried on fire department emergency equipment, other than emergency medical equipment, personal protective equipment and self-contained breathing apparatus used by local fire departments.
- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect: No
- 8) Does this rulemaking contain an automatic repealer date? No
- 9) Does this rulemaking contain incorporation by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? None
- 11) Statement of Statewide Policy Objectives: The Statewide Policy Objectives met by these rules is the safety of the public who rely on the local fire department to provide services in the event of an emergency. It is a policy of the State of Illinois to assist local fire departments to provide the best service possible and to protect the safety of the firefighters who do so.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may comment in writing to the following:

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John J. Fennell Jr.
General Counsel's Office
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield IL 62703-4259

312/814-2693
Facsimile: 217-558-1320
email: john.fennel@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Municipalities and fire protection districts that provide fire protection services; no small business or not for profit corporations affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: Individuals and companies that undertake to accept the grants are required to provide proof of purchase and actual use. No other bookkeeping is required.
 - C) Types of Professional skills necessary for compliance: Other than professional skills needed to use the equipment purchased, there are no particular professional skills needed to apply for and use the grant.
- 14) This rulemaking was not included on either of the 2 most recent agendas because: Rule was not anticipated during the 2 most recent agendas.

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

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TITLE 41: FIRE PROTECTION
CHAPTER I: STATE FIRE MARSHALPART 291
SMALL EQUIPMENT GRANT PROGRAM

Section	
291.10	Definitions
291.20	Purpose
291.30	Eligibility
291.40	Terms And Conditions of Grant Agreement
291.50	Application Procedure and Content
291.60	Grant Application Review Committee
291.70	Appeal Process

AUTHORITY: Authorized by subsection 10 of Section 2 of the State Fire Marshal Act [20 ILCS 2905/2].

SOURCE: Adopted at 31 Ill. Reg. _____, effective _____.

Section 291.10 Definitions

The following definitions apply to terms used in this Part:

"Committee" means the Grant Application Review Committee established in Section 291.60 of this Part.

"Fire Department" means an entity formed by a unit of local government (as defined in Article VII, Section 1 of the Illinois Constitution of 1970) that provides fire suppression within a geographical area.

"Office" means the Office of the State Fire Marshal.

"Program" means the Small Equipment Grant Program.

"Small Equipment" means small tools and equipment that are stored or carried on fire protection vehicles that respond to emergency incidents or equipment used by firefighters, such as personal protective equipment or equipment used in the station for emergency purposes.

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Section 291.20 Purpose

The Office of the State Fire Marshal shall administer a program to provide grant funds for the purchase of small equipment by a fire department. The Office shall determine grant awards based on equipment needs, financial need, and how recently the applicant has received a previous grant under this program. Grants for the purchase of small equipment shall not exceed \$26,000 in any single fiscal year to any fire department.

Section 291.30 Eligibility

- a) Applicants must have participated in the National Fire Incident Reporting System (NFIRS) for a minimum of two years prior to the application for the small equipment grant.
- b) Fire protection entities that are not governmental bodies are not eligible to apply for a grant under this program.
- c) Units of local government that do not operate fire departments are not eligible for grants under this program (e.g., a municipality that contracts for fire suppression from another municipality, fire protection district, or for-profit or not-for-profit business).

Section 291.40 Terms and Conditions of Grant Agreement

An applicant that has been approved to receive a grant under this program must enter into a Grant Agreement with the Office. The Grant Agreement shall contain the following terms:

- a) Grants under this program will be paid to recipients when the application is approved.
- b) Grant proceeds shall be used exclusively for the purposes listed in Section 291.20 and shall be expended in accordance with this Part and the Grant Agreement.
- c) In the event that the grant proceeds are not expended in the manner approved, the fire department, upon written notification from the Office, shall refund the full amount of the grant award. Recovery of grant funds shall be accomplished in accordance with the Illinois Grant Funds Recovery Act [30 ILCS 705].
- d) Use of grant proceeds shall be accounted for in accordance with standard accounting practices.

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- e) Grant recipients shall submit to the Office a report detailing how the grant proceeds were used. This expenditure report, to be submitted on a form supplied by the Office, shall be due not later than nine months following receipt of the grant.
- f) Grant proceeds shall be included in the fire department's budget.

Section 291.50 Grant Application Procedure and Content

- a) Application Procedure
 - 1) Subject to the availability of funds, the Office will issue application forms for small equipment grants under this program to all Illinois fire departments.
 - 2) A completed original application form shall be signed by the duly authorized officers of the fire department.
 - 3) Applications shall be returned, by the date specified on the form, to the Office of the State Fire Marshal, Attention: Small Equipment Grant Program, 1035 Stevenson Drive, Springfield, Illinois 62703-4259.
 - 4) Applications received at the Office shall be logged in as received and assigned an Application Number. Applicants will be notified by mail that their application has been received.
- b) Application Content

Each Grant application shall include the following information:

 - 1) Identifying information for the applicant fire department and its local government.
 - 2) A detailed description of the fire department's need for the proposed small equipment.
 - 3) Identification of fire department or local government personnel to serve as contacts for information.

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- 4) Copies of the fire department's two most recent budget and appropriation ordinances.
 - 5) Any other information the Office may require to determine the applicant's eligibility under this Part.
- c) **Review of Applications**
Applications shall be assessed by blind review, meaning the Committee shall not see the name, address or any specific information that identifies the applicant. The Committee shall review and rank the applications based on assessment of need and information provided in the grant application.
- d) **Grant Award**
After the Committee's review and ranking of applications, grant awards will be determined, within the amount of funding available for grants under this program.

Section 291.60 Grant Application Review Committee

- a) The State Fire Marshal shall appoint a Grant Review Committee to determine the eligibility of grant applicants, the amounts of individual grants, and the priority of each grant application.
- b) The Committee shall consist of the following seven members:
 - 1) The State Fire Marshal, as chairman;
 - 2) Three Fire Chiefs (one each from a volunteer department, a combination department and a career/municipal department);
 - 3) One representative from the Associated Fire Fighters of Illinois;
 - 4) One member who is a volunteer firefighter; and
 - 5) One member from the Illinois Association of Fire Protection Districts.
- c) The six members referenced in subsections (b)(2) – (5) shall be the same individuals who are appointed to represent those organizations on the Loan Application Review Committee established under 41 Ill. Adm. Code 290.40.

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- d) Members shall serve without salary, but may be reimbursed for reasonable expenses by the Office from appropriations for that purpose.
- e) All members shall have one vote, except that the State Fire Marshal shall only vote to break a tie.
- f) Members shall serve a term of four years. The members originally appointed under this Part shall serve for the remainder of their terms on the Loan Application Review Committee created by 41 Ill. Adm. Code 290.40.
- g) Upon the expiration of a member's term, the State Fire Marshal may reappoint that member or appoint a successor who is a representative of the same interests with which his or her predecessor was identified.
- h) Replacement of a Member
 - 1) The State Fire Marshal may, at any time, remove any of the respective appointees for inefficiency or neglect of duty in office.
 - 2) All members shall serve ex officio. A member shall continue to serve only as long as he or she holds the position that made that individual eligible to serve under the criteria prescribed by subsection (b).
 - 3) In the instances described in subsections (b)(1) and (2), or upon the death or incapacity of a member, the State Fire Marshal shall fill the vacancy for the remainder of the unexpired term by appointing a member who is a representative of the same interests with which his or her predecessor was identified.
- i) Appointees shall geographically represent the State.
- j) As determined by the State Fire Marshal, the Committee shall meet and organize within 10 days after the appointment of its members and, at that meeting, shall elect a Secretary from among the members to serve a term to be fixed by the Committee.
- k) Meetings of the Committee shall occur as often as deemed necessary by the State Fire Marshal, at a date, time and place to be fixed by the Committee (or by the State Fire Marshal, should he or she call for the meeting) and at such additional

OFFICE OF THE STATE FIRE MARSHAL

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times as the Committee deems necessary to consider any business as properly may come before it.

Section 291.70 Appeal Process

- a) Those applicants whose grant applications are denied by the Committee shall be notified by mail.
- b) Notice of denial shall be deemed received on the date of the postmark. The applicant has 30 calendar days from that date to forward to the Committee a Request for Reconsideration.
- c) The Request for Reconsideration shall be submitted to the Office of the State Fire Marshal, Attention: Small Equipment Grant Program, 1035 Stevenson Drive, Springfield, Illinois 62703-4259 and shall be deemed submitted on the date of the postmark.
- d) The Request for Reconsideration may be accompanied by supporting documents and information not previously considered by the Committee. The Committee shall review the Request for Reconsideration. A denial of the Request for Reconsideration shall be final. While a Request for Reconsideration is pending, the application that is the subject of the Request for Reconsideration shall be deemed denied.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 300
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
300.615	Amendment
300.620	Amendment
300.624	New
300.625	Amendment
300.626	Amendment
300.627	Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved: The Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300) regulates nursing home licensure. This rulemaking is being undertaken to implement Public Act 94-0752, enacted by the General Assembly to improve the supervision and care of identified offenders in long-term care facilities.

Section 300.615 (Determination of Need Screening and Request for Criminal History Record Information) is being amended to add statutory language requiring a name-based background check for all new residents, and a fingerprint-based background check if the results of the name-based check are inconclusive. Additional new language provides for a waiver from the fingerprint-based background check under certain conditions and establishes other statutory requirements.

Section 300.620 (Admission, Retention, and Discharge Policies) is receiving minor changes that reflect the changes to Section 300.615.

Section 300.624 (Criminal History Background Checks for Persons Who are Residents on May 10, 2006) is being added so that language requiring background checks for current residents is not confused with language in Section 300.625, while establishing care requirements for new and existing residents who are identified offenders.

Section 300.625 (Identified Offenders) is being amended to provide for a waiver from the fingerprint-based background check under certain conditions. Additional amendments

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implement requirements in P.A. 94-0752 that provide for the care of identified offenders in licensed facilities.

Section 300.626 (Discharge Planning for Identified Offenders) and Section 300.627 (Transfer of an Identified Offender) are being amended to implement language in P.A. 94-0752 dealing with involuntary discharge or the transfer of identified offenders.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
300.640	Amendment	30 Ill. Reg. 14780 – September 15, 2006

- 11) Statement of Statewide Policy Objectives: This rulemaking may create a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield Illinois 62761

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217/782-2043

e-mail: rules@idph.state.il.us

- 13) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: Long-term care facilities.
 - B) Reporting, bookkeeping or other procedures required for compliance: Reporting, bookkeeping and record keeping will be necessary for compliance.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
300.110	General Requirements
300.120	Application for License
300.130	Licensee
300.140	Issuance of an Initial License for a New Facility
300.150	Issuance of an Initial License Due to a Change of Ownership
300.160	Issuance of a Renewal License
300.163	Alzheimer's Special Care Disclosure
300.165	Criteria for Adverse Licensure Actions
300.170	Denial of Initial License
300.175	Denial of Renewal of License
300.180	Revocation of License
300.190	Experimental Program Conflicting With Requirements
300.200	Inspections, Surveys, Evaluations and Consultation
300.210	Filing an Annual Attested Financial Statement
300.220	Information to Be Made Available to the Public By the Department
300.230	Information to Be Made Available to the Public By the Licensee
300.240	Municipal Licensing
300.250	Ownership Disclosure
300.260	Issuance of Conditional Licenses
300.270	Monitor and Receivership
300.271	Presentation of Findings
300.272	Determination to Issue a Notice of Violation or Administrative Warning
300.274	Determination of the Level of a Violation
300.276	Notice of Violation
300.277	Administrative Warning
300.278	Plans of Correction
300.280	Reports of Correction
300.282	Conditions for Assessment of Penalties
300.284	Calculation of Penalties
300.286	Determination to Assess Penalties

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300.288	Reduction or Waiver of Penalties
300.290	Quarterly List of Violators (Repealed)
300.300	Alcoholism Treatment Programs In Long-Term Care Facilities
300.310	Department May Survey Facilities Formerly Licensed
300.315	Supported Congregate Living Arrangement Demonstration
300.320	Waivers
300.330	Definitions
300.340	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section	
300.510	Administrator

SUBPART C: POLICIES

Section	
300.610	Resident Care Policies
300.615	Determination of Need Screening and Request for Resident Criminal History Record Information
300.620	Admission, Retention and Discharge Policies
300.624	Criminal History Background Checks for Persons Who Are Residents on May 10, 2006
300.625	Identified Offenders
300.626	Discharge Planning for Identified Offenders
300.627	Transfer of an Identified Offender
300.630	Contract Between Resident and Facility
300.640	Residents' Advisory Council
300.650	Personnel Policies
300.655	Initial Health Evaluation for Employees
300.660	Nursing Assistants
300.661	Health Care Worker Background Check
300.662	Resident Attendants
300.663	Registry of Certified Nursing Assistants
300.665	Student Interns
300.670	Disaster Preparedness
300.680	Restraints
300.682	Nonemergency Use of Physical Restraints
300.684	Emergency Use of Physical Restraints

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300.686	Unnecessary, Psychotropic, and Antipsychotic Drugs
300.690	Serious Incidents and Accidents
300.695	Contacting Local Law Enforcement
300.696	Infection Control

SUBPART D: PERSONNEL

Section	
300.810	General
300.820	Categories of Personnel
300.830	Consultation Services
300.840	Personnel Policies

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section	
300.1010	Medical Care Policies
300.1020	Communicable Disease Policies
300.1025	Tuberculin Skin Test Procedures
300.1030	Medical Emergencies
300.1035	Life-Sustaining Treatments
300.1040	Behavior Emergencies (Repealed)
300.1050	Dental Standards
300.1060	Vaccinations

SUBPART F: NURSING AND PERSONAL CARE

Section	
300.1210	General Requirements for Nursing and Personal Care
300.1220	Supervision of Nursing Services
300.1230	Staffing
300.1240	Additional Requirements

SUBPART G: RESIDENT CARE SERVICES

Section	
300.1410	Activity Program
300.1420	Specialized Rehabilitation Services
300.1430	Work Programs

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- 300.1440 Volunteer Program
- 300.1450 Language Assistance Services

SUBPART H: MEDICATIONS

Section

- 300.1610 Medication Policies and Procedures
- 300.1620 Compliance with Licensed Prescriber's Orders
- 300.1630 Administration of Medication
- 300.1640 Labeling and Storage of Medications
- 300.1650 Control of Medications

SUBPART I: RESIDENT AND FACILITY RECORDS

Section

- 300.1810 Resident Record Requirements
- 300.1820 Content of Medical Records
- 300.1830 Records Pertaining to Residents' Property
- 300.1840 Retention and Transfer of Resident Records
- 300.1850 Other Resident Record Requirements
- 300.1860 Staff Responsibility for Medical Records
- 300.1870 Retention of Facility Records
- 300.1880 Other Facility Record Requirements

SUBPART J: FOOD SERVICE

Section

- 300.2010 Director of Food Services
- 300.2020 Dietary Staff in Addition to Director of Food Services
- 300.2030 Hygiene of Dietary Staff
- 300.2040 Diet Orders
- 300.2050 Meal Planning
- 300.2060 Therapeutic Diets (Repealed)
- 300.2070 Scheduling Meals
- 300.2080 Menus and Food Records
- 300.2090 Food Preparation and Service
- 300.2100 Food Handling Sanitation
- 300.2110 Kitchen Equipment, Utensils, and Supplies

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SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section

- 300.2210 Maintenance
- 300.2220 Housekeeping
- 300.2230 Laundry Services

SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

- 300.2410 Furnishings
- 300.2420 Equipment and Supplies
- 300.2430 Sterilization of Equipment and Supplies

SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

Section

- 300.2610 Codes
- 300.2620 Water Supply
- 300.2630 Sewage Disposal
- 300.2640 Plumbing

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section

- 300.2810 Applicability of these Standards
- 300.2820 Codes and Standards
- 300.2830 Preparation of Drawings and Specifications
- 300.2840 Site
- 300.2850 Administration and Public Areas
- 300.2860 Nursing Unit
- 300.2870 Dining, Living, Activities Rooms
- 300.2880 Therapy and Personal Care
- 300.2890 Service Departments
- 300.2900 General Building Requirements
- 300.2910 Structural
- 300.2920 Mechanical Systems
- 300.2930 Plumbing Systems

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300.2940 Electrical Systems

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section

300.3010 Applicability
300.3020 Codes and Standards
300.3030 Preparation of Drawings and Specifications
300.3040 Site
300.3050 Administration and Public Areas
300.3060 Nursing Unit
300.3070 Living, Dining, Activities Rooms
300.3080 Treatment and Personal Care
300.3090 Service Departments
300.3100 General Building Requirements
300.3110 Structural
300.3120 Mechanical Systems
300.3130 Plumbing Systems
300.3140 Electrical Requirements

SUBPART P: RESIDENT'S RIGHTS

Section

300.3210 General
300.3220 Medical and Personal Care Program
300.3230 Restraints (Repealed)
300.3240 Abuse and Neglect
300.3250 Communication and Visitation
300.3260 Resident's Funds
300.3270 Residents' Advisory Council
300.3280 Contract With Facility
300.3290 Private Right of Action
300.3300 Transfer or Discharge
300.3310 Complaint Procedures
300.3320 Confidentiality
300.3330 Facility Implementation

SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

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Section

300.3410	Application of Other Sections of These Minimum Standards (Repealed)
300.3420	Administrator (Repealed)
300.3430	Policies (Repealed)
300.3440	Personnel (Repealed)
300.3450	Resident Living Services Medical and Dental Care (Repealed)
300.3460	Resident Services Program (Repealed)
300.3470	Psychological Services (Repealed)
300.3480	Social Services (Repealed)
300.3490	Recreational and Activities Services (Repealed)
300.3500	Individual Treatment Plan (Repealed)
300.3510	Health Services (Repealed)
300.3520	Medical Services (Repealed)
300.3530	Dental Services (Repealed)
300.3540	Optometric Services (Repealed)
300.3550	Audiometric Services (Repealed)
300.3560	Podiatric Services (Repealed)
300.3570	Occupational Therapy Services (Repealed)
300.3580	Nursing and Personal Care (Repealed)
300.3590	Resident Care Services (Repealed)
300.3600	Record Keeping (Repealed)
300.3610	Food Service (Repealed)
300.3620	Furnishings, Equipment and Supplies (New and Existing Facilities) (Repealed)
300.3630	Design and Construction Standards (New and Existing Facilities) (Repealed)

SUBPART R: DAYCARE PROGRAMS

Section

300.3710	Day Care in Long-Term Care Facilities
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SUBPART S: PROVIDING SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section

300.4000	Applicability of Subpart S
300.4010	Comprehensive Assessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4020	Reassessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S

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- 300.4030 Individualized Treatment Plan for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4040 General Requirements for Facilities Subject to Subpart S
- 300.4050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart S
- 300.4060 Discharge Plans for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4070 Work Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4080 Community-Based Rehabilitation Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4090 Personnel for Providing Services to Persons with Serious Mental Illness for Facilities Subject to Subpart S

SUBPART T: FACILITIES PARTICIPATING IN ILLINOIS DEPARTMENT OF
PUBLIC AID'S DEMONSTRATION PROGRAM FOR PROVIDING
SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section

- 300.6000 Applicability of Subpart T
- 300.6005 Quality Assessment and Improvement for Facilities Subject to Subpart T
- 300.6010 Comprehensive Assessments for Residents of Facilities Subject to Subpart T
- 300.6020 Reassessments for Residents of Facilities Subject to Subpart T
- 300.6030 Individualized Treatment Plan for Residents of Facilities Subject to Subpart T
- 300.6040 General Requirements for Facilities Subject to Subpart T
- 300.6045 Serious Incidents and Accidents in Facilities Subject to Subpart T
- 300.6047 Medical Care Policies for Facilities Subject to Subpart T
- 300.6049 Emergency Use of Restraints for Facilities Subject to Subpart T
- 300.6050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart T
- 300.6060 Discharge Plans for Residents of Facilities Subject to Subpart T
- 300.6070 Work Programs for Residents of Facilities Subject to Subpart T
- 300.6080 Community-Based Rehabilitation Programs for Residents of Facilities Subject to Subpart T
- 300.6090 Personnel for Providing Services to Residents of Facilities Subject to Subpart T
- 300.6095 Training and Continuing Education for Facilities Subject to Subpart T

SUBPART U: ALZHEIMER'S SPECIAL CARE UNIT OR CENTER PROVIDING
CARE TO PERSONS WITH ALZHEIMER'S DISEASE OR OTHER DEMENTIA

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300.7000	Applicability
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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill.

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Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective September 10, 1996; amended at 21 Ill. Reg. 15000, effective November 15, 1997; amended at 22 Ill. Reg. 4094, effective February 13, 1998; amended at 22 Ill. Reg. 7218, effective April 15, 1998; amended at 22 Ill. Reg. 16609, effective September 18, 1998; amended at 23 Ill. Reg. 1103, effective January 15, 1999; amended at 23 Ill. Reg. 8106, effective July 15, 1999; amended at 24 Ill. Reg. 17330, effective November 1, 2000; amended at 25 Ill. Reg. 4911, effective April 1, 2001; amended at 26 Ill. Reg. 3113, effective February 15, 2002; amended at 26 Ill. Reg. 4846, effective April 1, 2002; amended at 26 Ill. Reg. 10523, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2181, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5452, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5862, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14204, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at

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27 Ill. Reg. 15855, effective September 25, 2003; amended at 27 Ill. Reg. 18105, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3528, effective November 15, 2003; amended at 28 Ill. Reg. 11180, effective July 22, 2004; amended at 28 Ill. Reg. 14623, effective October 20, 2004; amended at 29 Ill. Reg. 876, effective December 22, 2004; emergency amendment at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15101, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12852, effective August 2, 2005; amended at 30 Ill. Reg. 1425, effective January 23, 2006; amended at 30 Ill. Reg. 5213, effective March 2, 2006; amended at 31 Ill. Reg. _____, effective _____.

SUBPART C: POLICIES

Section 300.615 Determination of Need Screening and Request for Resident Criminal History Record Information

- a) For the purpose of this Section only, a nursing facility is any bed licensed as a skilled nursing or intermediate care facility bed, or a location certified to participate in the Medicare program under Title XVIII of the Social Security Act or Medicaid program under Title XIX of the Social Security Act.
- b) *All persons seeking admission to a nursing facility must be screened to determine the need for nursing facility services prior to being admitted, regardless of income, assets, or funding source.* (Section 2-201.5(a) of the Act) A screening assessment is not required provided one of the conditions in Section 140.642(c) of the rules of the Department of Healthcare and Family Services titled Medical Payment (89 Ill. Adm. Code 140.642(c)) is met.
- c) *Any person who seeks to become eligible for medical assistance from the Medical Assistance program under the Illinois Public Aid Code to pay for long-term care services while residing in a facility shall be screened* in accordance with 89 Ill. Adm. Code 140.642(b)(4). (Section 2-201.5(a) of the Act)
- d) *Screening shall be administered through procedures established by administrative rule* by the agency responsible for screening. (Section 2-201.5(a) of the Act) The Illinois Department on Aging is responsible for the screening required in subsection (b) of this Section for individuals 60 years of age or older who are not developmentally disabled or do not have a severe mental illness. The Illinois Department of Human Services is responsible for the screening required in

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subsection (b) of this Section for all individuals 18 through 59 years of age and for individuals 60 years of age or older who are developmentally disabled or have a severe mental illness. The Illinois Department of Healthcare and Family Services or its designee is responsible for the screening required in subsection (c) of this Section.

- e) *In addition to the screening required by Section 2-201.5(a) of the Act and this Section, a facility shall, within 24 hours after admission of a resident, request a criminal history background check pursuant to the Uniform Conviction Information Act [20 ILCS 2635] for all persons 18 or older seeking admission to the facility. Background checks shall be based on the resident's name, date of birth, and other identifiers as required by the Department of State Police. (Section 2-201.5(b) of the Act) identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of this Section and Section 300.625 of this Part. (Section 2-201.5(b) of the Act)*
- f) The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us to determine if the individual is listed as a registered sex offender.
- g) *f) If the results of the background check are inconclusive, the facility shall initiate a fingerprint-based check, unless the fingerprint check is waived by the Director of Public Health based on verification by the facility that the resident is completely immobile or that the resident meets other criteria related to the resident's health or lack of potential risk, such as the existence of a severe, debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident. (Section 2-201.5(b) of the Act) The facility shall arrange for a fingerprint-based background check or request a waiver from the Department within 5 days after receiving inconclusive results of a name-based background check. The fingerprint-based background check shall be conducted within 25 days after receiving the inconclusive results of the name-based check. Screening must include the following:*
- 1) ~~The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at~~

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~~www.idoc.state.il.us to determine if the individual is listed as a registered sex offender;~~

- 2) ~~The facility shall request criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police. Persons may be admitted to facilities while the results of a criminal history record information request are pending; and~~
- 3) ~~If the individual has a felony conviction and was in the custody of the Department of Corrections, the facility shall request the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].~~

h)g) ~~*A waiver issued pursuant to Section 2-201.5 of the Act shall be valid only while the resident is immobile or while the criteria supporting the waiver exist. (Section 2-201.5(b) of the Act)*~~The facility must review the screenings and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 300.620 and 300.625 of this Part. The facility is responsible for the development of a plan of care appropriate to the needs of the identified offender, in accordance with Section 300.625 of this Part. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

i) ~~*The facility shall provide for or arrange for any required fingerprint-based checks to be taken on the premises of the facility. If a fingerprint-based check is required, the facility shall arrange for it to be conducted in a manner that is*~~

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respectful of the resident's dignity and that minimizes any emotional or physical hardship to the resident. (Section 2-201.5(b) of the Act) If a facility is unable to conduct a fingerprint-based background check in compliance with this Section, then it shall provide conclusive evidence of the resident's immobility or risk nullification of the waiver issued pursuant to Section 2-201.5 of the Act.

~~j)h) If the results of a resident's criminal history background check reveal that the resident is an identified offender as defined in Section 1-114.01 of the Act, the facility shall immediately fax the resident's name and criminal history to the Department pursuant to the requirements of Section 2-201.6 of the Act and Section 300.625 of this Part. (Section 2-201.5(c) of the Act)The facility shall inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation within 48 hours after receiving verification from the Illinois State Police that a prospective or newly admitted resident is an identified offender.~~

k) The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based background check are pending; while the results of a request for waiver of a fingerprint-based check are pending; and/or while the Criminal History Analysis Report is pending.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 300.620 Admission, Retention and Discharge Policies

- a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.
- b) An individual who needs services that are not readily available in a particular facility, or through arrangement with a qualified outside resource, shall not be admitted to or kept in that facility. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided.
- c) Each facility shall have a policy concerning the admission of persons needing prenatal and/or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the

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facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house and/or outside resources. (See Section 300.3220.)

- d) No person shall be admitted to or kept in the facility:
- 1) Who is at risk because the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future, as determined by professional evaluation;
 - 2) Who is destructive of property, if the destruction jeopardizes the safety of him/herself or others; or
 - 3) Who is an identified offender, unless the requirements of Section 300.615~~(f)~~ and ~~(g)~~ for new admissions and the requirements of Section 300.625 are met.
- e) No resident shall be admitted to the facility who is developmentally disabled and who needs programming for such conditions, as described in the rules governing intermediate care facilities for the developmentally disabled (77 Ill. Adm. Code 350). Such persons shall be admitted only to facilities licensed as intermediate care facilities for the developmentally disabled under 77 Ill. Adm. Code 350 or, if the person is under 18, to a long-term care facility for persons under 22 years of age that is licensed under 77 Ill. Adm. Code 390. Persons from 18 to 21 years of age in need of such care may be kept in either facility.
- f) Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Department.
- g) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident or, if the resident is incompetent, by the resident's guardian.
- h) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.
- i) Persons with communicable, contagious, or infectious diseases may be admitted under the conditions and in accordance with the procedures specified in Section 300.1020.

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- j) A facility shall not admit more residents than the number authorized by the license issued to it.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 300.624 Criminal History Background Checks for Persons Who Are Residents on May 10, 2006

- a) The facility shall, by July 9, 2006, request a criminal history background check pursuant to the Uniform Conviction Information Act for all persons who are residents of the facility on May 10, 2006. (Section 2-201.5(b) of the Act)
- b) If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.
- c) The facility shall be responsible for taking all steps necessary to ensure the safety of all residents while the results of the name-based background check are pending.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 300.625 Identified Offenders

- a) ~~The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.~~
- b) ~~If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.~~
- a)e) The facility shall review the results of the criminal history background checks immediately upon receipt of those checks. If the results of the background check are inconclusive, the facility shall initiate a fingerprint-based check unless the fingerprint-based check is waived by the Director of Public Health based on verification by the facility that the resident is completely immobile or that the resident meets other criteria related to the resident's health or lack of potential

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risk, such as the existence of a severe, debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident. (Section 2-201.5(b) of the Act) The facility shall arrange for a fingerprint-based background check or request a waiver from the Department within 5 days after receiving inconclusive results of a name-based background check. The fingerprint-based background check shall be conducted within 25 days after receiving the inconclusive results of the name-based check. If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.

- b) A waiver issued pursuant to Section 2-201.5 of the Act shall be valid only while the resident is immobile or while the criteria supporting the waiver exist.
- c) The facility shall provide for or arrange for any required fingerprint-based checks to be taken on the premises of the facility.
- d) If a fingerprint-based check is required, the facility shall arrange for it to be conducted in a manner that is respectful of the resident's dignity and that minimizes any emotional or physical hardship to the resident. (Section 2-201.5(b) of the Act) If a facility is unable to conduct a fingerprint-based background check in compliance with this Section, then it shall provide conclusive evidence of the resident's immobility or risk nullification of the waiver issued pursuant to Section 2-201.5(b) of the Act.
- e) The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based check are pending; while the results of a request for a waiver of a fingerprint-based check are pending; and/or while the Criminal History Analysis Report is pending.
- f) If the results of a resident's criminal history background check reveal that the resident is an identified offender as defined in Section 1-114.01 of the Act, the facility shall immediately fax the resident's name and criminal history information to the Department. (Section 2-201.5(c) of the Act)
- g) If identified offenders are residents of a facility, the facility shall comply with all of the following requirements:

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- 1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense who are residents of the facility. *If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act, to verify compliance with the requirements of Public Act 94-163 and Public Act 94-752, or to verify compliance with applicable terms of probation, parole, or mandatory supervised release.* (Section 2-110(a-5) of the Act) Reasonable access under this provision shall not interfere with the identified offender's medical or psychiatric care.
- 2) The facility staff shall meet with local law enforcement officials to discuss the need for and to develop, if needed, policies and procedures to address the presence of facility residents who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense, including compliance with Section 300.695 of this Part.
- 3) *Every licensed facility shall provide to every prospective and current resident and resident's guardian, and to every facility employee, a written notice, prescribed by the Department, advising the resident, guardian, or employee of his or her right to ask whether any residents of the facility are identified offenders. The facility shall confirm whether identified offenders are residing in the facility. The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification, prescribed by the Department, that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us, the Department of State Police, or local law enforcement agencies.*
 - A) *The notice shall also be prominently posted within every licensed facility.*

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- B) The notice shall include a statement that information regarding registered sex offenders may be obtained from the Illinois State Police website, www.isp.state.il.us, and that information regarding persons serving terms of parole or mandatory supervised release may be obtained from the Illinois Department of Corrections website, www.idoc.state.il.us. (Section 2-216 of the Act)*
- 4) The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)*
- 4)5) If the identified offender is on probation, ~~or~~ parole, or mandatory supervised release, status, the facility ~~shall~~must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record.*
- 6) The facility ~~must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation if the probation officer has not, within three days after the identified offender becomes a resident, provided the facility with copies of the following:~~*
- A) ~~pre-sentence investigation reports or social investigation reports;~~*
- B) ~~any applicable probation orders and corresponding compliance plans;~~*
- C) ~~the name and contact information for the assigned probation officer. (Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110])~~*
- e) The facility ~~must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act).~~*
- h)¶ Facilities ~~shall~~must maintain written documentation of compliance with Section 300.615(¶) of this Part ~~and subsection (a) of this Section.~~*

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- ~~i)g)~~ Facilities must annually complete all of the steps required in subsection ~~(g)(d)~~ of this Section for identified offenders. This requirement does not apply to residents who have not been discharged from the facility during the previous 12 months.
- ~~j)h)~~ For current residents who are identified offenders, the facility shall review the security measures listed in the Criminal History Analysis Report provided by the Department. ~~must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of retention in the facility in accordance with subsection (j).~~
- ~~k)i)~~ Upon admission of an identified offender to a facility or a decision to retain an identified offender in a facility, the facility, in consultation with the medical director and law enforcement, shall ~~must~~ specifically address the resident's needs in an individualized plan of care, ~~that reflects the risk assessment of the individual, in accordance with subsection (j) of this Section.~~
- ~~l)j)~~ The facility shall incorporate the Criminal History Analysis Report into the identified offender's care plan. (Section 2-201.6(f) of the Act)~~In conducting a risk assessment of an identified offender and developing a plan of care, the facility shall consider the following:~~
- ~~1)~~ The care and supervision needs, if any, specific to the individual's criminal offense;
 - ~~2)~~ The results of the screening conducted pursuant to Section 300.615 of this Part;
 - ~~3)~~ The amount of supervision required by the individual to ensure the safety of all residents, staff and visitors in the facility;
 - ~~4)~~ The physical and mental abilities of the individual;
 - ~~5)~~ The current medical assessments of the individual;
 - ~~6)~~ The individual's needs in relation to his or her status as an identified offender;

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- ~~7) Approaches to resident care that are proactive and are appropriate and effective in dealing with any behaviors specific to the identified offense; and~~
- ~~8) The number and qualifications of staff needed to meet the needs of the individual and the required level of supervision at all times.~~
- ~~m)k) If the identified offender is a convicted (see 730 ILCS 150/2) or registered (see 730 ILCS 150/3) sex offender or if the Criminal History Analysis conducted pursuant to Section 2-201.6 of the Act reveals that the identified offender poses a significant risk of harm to others within the facility, the offender shall be required to have his or her own room within the facility subject to the rights of married residents under Section 2-108(e) of the Act. (Section 2-201.6(d) of the Act)The care planning of identified offenders shall include a description of the security measures necessary to protect facility residents from the identified offender, including whether the identified offender should be segregated from other residents. (Section 3-202.3(5) of the Act)~~
- ~~1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms, under the following conditions:~~
- ~~A) The room must be in direct view of the main nurses' station; and~~
- ~~B) The resident must not share his or her room or bathroom with any other resident.~~
- ~~2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to~~

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~~whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:~~

~~A) All of the documentation required by subsection (j) of this Section; and~~

~~B) whether the individual is dependent on any type of life support system or equipment.~~

~~3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:~~

~~A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;~~

~~B) The length of time since the individual's release from parole, probation, or mandatory supervised release;~~

~~C) The age of the individual at the time of the conviction; and~~

~~D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).~~

n) The facility's reliance on the Criminal History Analysis Report prepared pursuant to Section 2-201.6(d) of the Act shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to the identified offender or other facility residents.

o) The facility ~~shall~~ must evaluate care plans at least quarterly for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility ~~shall~~ must modify the care plan if necessary in response to this evaluation. The facility remains responsible for continuously evaluating the identified offender and for making any changes in the care plan that are necessary to ensure the safety of residents.

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- p)m) Incident reports ~~shall~~**must** be submitted to the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in compliance with Section 300.690 of this Part. The facility ~~shall~~**must** review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 300.3300 of this Part.
- q)n) The facility ~~shall~~**must** notify the appropriate local law enforcement agency, the Illinois Prisoner Review Board, or the Department of Corrections of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.
- r)o) The facility ~~shall~~**must** develop procedures for implementing changes in resident care and facility policies when the resident no longer meets the definition of identified offender.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 300.626 Discharge Planning for Identified Offenders

- a) *If, based on the security measures listed in the Criminal History Analysis Report, a facility determines that it cannot manage the identified offender resident safely within the facility, it shall commence involuntary transfer or discharge proceedings pursuant to Section 3-402 of the Act and Section 300.3300 of this Part. (Section 2-201.6(g) of the Act)*
- b)a) All discharges and transfers shall be in accordance with Section 300.3300 of this Part.
- c) *When a resident who is an identified offender is discharged, the discharging facility shall notify the Department.*

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- ~~d)~~**b)** A facility that admits or retains an identified offender shall have in place policies and procedures for the discharge of an identified offender for reasons related to the individual's status as an identified offender, including, but not limited to:
- 1) The facility's inability to meet the needs of the resident, based on ~~Section 300.615(g) and~~ Section 300.625 of this Part and subsection (a) of this Section;
 - 2) The facility's inability to provide the security measures necessary to protect facility residents, staff and visitors; or
 - 3) The physical safety of the resident, other residents, the facility staff, or facility visitors.
- ~~e)~~**e)** Discharge planning shall be included as part of the plan of care developed in accordance with Section 300.625 ~~(k)(j)~~.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 300.627 Transfer of an Identified Offender

- a)** *If, based on the security measures listed in the Criminal History Analysis Report, a facility determines that it cannot manage the identified offender resident safely within the facility, it shall commence involuntary transfer or discharge proceedings pursuant to Section 3-402 of the Act and Section 300.3300 of this Part. (Section 2-201.6(g) of the Act)*
- ~~b)~~**a)** All discharges and transfers shall be in accordance with Section 300.3300 of this Part.
- ~~c)~~**b)** When a resident who is an identified offender is transferred to another facility regulated by the Department, the Department of Healthcare and Family Services, or the Department of Human Services, the transferring facility ~~shall~~**must** notify the Department and the receiving facility that the individual is an identified offender before making the transfer.
- ~~d)~~**e)** This notification must include all of the documentation required under Section 300.625 of this Part and subsection (a) of this Section, and the transferring facility

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must provide this information to the receiving facility to complete the discharge planning.

e)Ⓢ If the following information has been provided to the transferring facility from the Department of Corrections, the transferring facility shall provide copies to the receiving facility before making the transfer:

- 1) *The mittimus and any pre-sentence investigation reports;*
- 2) *The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];*
- 3) *Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];*
- 4) *Reports of disciplinary infractions and dispositions;*
- 5) *Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and*
- 6) *The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)*

f)Ⓢ The information required by this Section shall be provided upon transfer. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Sheltered Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 330
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
330.715	Amendment
330.720	Amendment
330.724	New
330.725	Amendment
330.726	Amendment
330.727	Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved: The Sheltered Care Facilities Code (77 Ill. Adm. Code 330) regulates sheltered care facilities. This rulemaking is being undertaken to implement Public Act 94-0752, enacted by the General Assembly to improve the supervision and care of identified offenders in long-term care facilities.

Section 330.715 (Pre-Admission Assessment and Request for Criminal History Record Information) is being amended to add statutory language requiring a name-based background check for all new residents, and a fingerprint-based background check if the results of the name-based check are inconclusive. Additional new language provides for a waiver from the fingerprint-based background check under certain conditions and establishes other statutory requirements.

Section 330.720 (Admission and Discharge Policies) is receiving minor changes that reflect the changes to Section 330.715.

Section 330.724 (Criminal History Background Checks for Persons Who are Residents on May 10, 2006) is being added so that language requiring background checks for current residents is not confused with language in Section 330.725, while establishing care requirements for new and existing residents who are identified offenders.

Section 330.725 (Identified Offenders) is being amended to provide for a waiver from the fingerprint-based background check under certain conditions. Additional amendments implement requirements in P.A. 94-0752 that provide for the care of identified offenders in licensed facilities.

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Section 330.726 (Discharge Planning for Identified Offenders) and Section 330.727 (Transfer of an Identified Offender) are being amended to implement language in P.A. 94-0752 dealing with involuntary discharge.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
330.740	Amendment	30 Ill. Reg. 14795; September 15, 2006

- 11) Statement of Statewide Policy Objective: This rulemaking may create a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761

217/782-2043
e-mail: rules@idph.state.il.us

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- 13) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: Long-term care facilities
 - B) Reporting, bookkeeping or other procedures required for compliance: Reporting, bookkeeping and record keeping will be necessary for compliance.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 330
SHELTERED CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
330.110	General Requirements
330.120	Application for License
330.130	Licensee
330.140	Issuance of an Initial License For a New Facility
330.150	Issuance of an Initial License Due to a Change of Ownership
330.160	Issuance of a Renewal License
330.163	Alzheimer's Special Care Disclosure
330.165	Criteria for Adverse Licensure Actions
330.170	Denial of Initial License
330.175	Denial of Renewal of License
330.180	Revocation of License
330.190	Experimental Program Conflicting With Requirements
330.200	Inspections, Surveys, Evaluations and Consultation
330.210	Filing an Annual Attested Financial Statement
330.220	Information to be Made Available to the Public By the Department
330.230	Information to be Made Available to the Public By the Licensee
330.240	Municipal Licensing
330.250	Ownership Disclosure
330.260	Issuance of Conditional Licenses
330.270	Monitoring and Receivership
330.271	Presentation of Findings
330.272	Determination to Issue a Notice of Violation or Administrative Warning
330.274	Determination of the Level of a Violation
330.276	Notice of Violation
330.277	Administrative Warning
330.278	Plans of Correction
330.280	Reports of Correction
330.282	Conditions for Assessment of Penalties
330.284	Calculation of Penalties
330.286	Determination to Assess Penalties

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330.288	Reduction or Waiver of Penalties
330.290	Quarterly List of Violators (Repealed)
330.300	Alcoholism Treatment Programs In Long-Term Care Facilities
330.310	Department May Survey Facilities Formerly Licensed
330.315	Supported Congregate Living Arrangement Demonstration
330.320	Waivers
330.330	Definitions
330.340	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section	
330.510	Administrator

SUBPART C: POLICIES

Section	
330.710	Resident Care Policies
330.715	Pre-admission Assessment and Request for <u>Resident</u> Criminal History Record Information
330.720	Admission and Discharge Policies
<u>330.724</u>	<u>Criminal History Background Checks For Persons Who Are Residents on May 10, 2006</u>
330.725	Identified Offenders
330.726	Discharge Planning for Identified Offenders
330.727	Transfer of an Identified Offender
330.730	Contract Between Resident and Facility
330.740	Residents' Advisory Council
330.750	General Policies
330.760	Personnel Policies
330.765	Initial Health Evaluation for Employees
330.770	Disaster Preparedness
330.780	Serious Incidents and Accidents
330.785	Contacting Local Law Enforcement
330.790	Infection Control
330.795	Language Assistance Services

SUBPART D: PERSONNEL

Section

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- 330.910 Personnel
- 330.911 Health Care Worker Background Check
- 330.913 Nursing and Personal Care Assistants (Repealed)
- 330.916 Student Interns (Repealed)
- 330.920 Consultation Services
- 330.930 Personnel Policies

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

- Section
- 330.1110 Medical Care Policies
 - 330.1120 Personal Care
 - 330.1125 Life Sustaining Treatments
 - 330.1130 Communicable Disease Policies
 - 330.1135 Tuberculin Skin Test Procedures
 - 330.1140 Behavior Emergencies (Repealed)
 - 330.1145 Restraints
 - 330.1150 Emergency Use of Physical Restraints
 - 330.1155 Unnecessary, Psychotropic, and Antipsychotic Drugs
 - 330.1160 Vaccinations

SUBPART F: RESTORATIVE SERVICES

- Section
- 330.1310 Activity Program
 - 330.1320 Work Programs
 - 330.1330 Written Policies for Restorative Services
 - 330.1340 Volunteer Program

SUBPART G: MEDICATIONS

- Section
- 330.1510 Medication Policies
 - 330.1520 Administration of Medication
 - 330.1530 Labeling and Storage of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

- Section
- 330.1710 Resident Record Requirements

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- 330.1720 Content of Medical Records
- 330.1730 Records Pertaining to Residents' Property
- 330.1740 Retention and Transfer of Resident Records
- 330.1750 Other Resident Record Requirements
- 330.1760 Retention of Facility Records
- 330.1770 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section

- 330.1910 Director of Food Services
- 330.1920 Dietary Staff in Addition to Director of Food Services
- 330.1930 Hygiene of Dietary Staff
- 330.1940 Diet Orders
- 330.1950 Meal Planning
- 330.1960 Therapeutic Diets (Repealed)
- 330.1970 Scheduling of Meals
- 330.1980 Menus and Food Records
- 330.1990 Food Preparation and Service
- 330.2000 Food Handling Sanitation
- 330.2010 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section

- 330.2210 Maintenance
- 330.2220 Housekeeping
- 330.2230 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

- 330.2410 Furnishings
- 330.2420 Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section

- 330.2610 Codes
- 330.2620 Water Supply

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330.2630 Sewage Disposal
330.2640 Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR
NEW SHELTERED CARE FACILITIES

Section

330.2810 Applicable Requirements (Repealed)
330.2820 Applicability of These Standards
330.2830 Submission of a Program Narrative
330.2840 New Constructions, Additions, Conversions, and Alterations
330.2850 Preparation and Submission of Drawings and Specifications
330.2860 First Stage Drawings
330.2870 Second Stage Drawings
330.2880 Architectural Drawings
330.2890 Structural Drawings
330.3000 Mechanical Drawings
330.3010 Electrical Drawings
330.3020 Additions to Existing Structures
330.3030 Specifications
330.3040 Building Codes
330.3050 Site
330.3060 General Building Requirements
330.3070 Administration
330.3080 Corridors
330.3090 Bath and Toilet Rooms
330.3100 Living, Dining, Activity Rooms
330.3110 Bedrooms
330.3120 Special Care Room
330.3130 Kitchen
330.3140 Laundry
330.3150 Housekeeping, Service, and Storage
330.3160 Plumbing
330.3170 Heating
330.3180 Electrical

SUBPART N: FIRE PROTECTION STANDARDS FOR NEW
SHELTERED CARE FACILITIES

Section

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- 330.3310 Applicable Requirements (Repealed)
- 330.3320 Applicability of These Standards
- 330.3330 Fire Protection
- 330.3340 Fire Department Service and Water Supply
- 330.3350 General Building Requirements
- 330.3360 Exit Facilities and Subdivision of Floor Areas
- 330.3370 Stairways, Vertical Openings, and Doorways
- 330.3380 Corridors
- 330.3390 Exit Lights and Directional Signs
- 330.3400 Hazardous Areas and Combustible Storage
- 330.3410 Fire Alarm and Detection System
- 330.3420 Fire Extinguishers, Electric Wiring, and Miscellaneous
- 330.3430 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR
EXISTING SHELTERED CARE FACILITIES

Section

- 330.3610 Site
- 330.3620 General Building Requirements
- 330.3630 Administration
- 330.3640 Corridors
- 330.3650 Bath and Toilet Rooms
- 330.3660 Living, Dining, and Activity Rooms
- 330.3670 Bedrooms
- 330.3680 Special Care Room
- 330.3690 Kitchen
- 330.3700 Laundry Room
- 330.3710 Housekeeping and Service Rooms and Storage Space
- 330.3720 Plumbing and Heating
- 330.3730 Electrical

SUBPART P: FIRE PROTECTION STANDARDS FOR EXISTING
SHELTERED CARE FACILITIES

Section

- 330.3910 Fire Protection
- 330.3920 Fire Department Service and Water Supply
- 330.3930 Occupancy and Fire Areas
- 330.3940 Exit Facilities and Subdivision of Floor Areas

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- 330.3950 Stairways, Vertical Openings, and Doorways
- 330.3960 Exit and Fire Escape Lights and Directional Signs
- 330.3970 Hazardous Areas and Combustible Storage
- 330.3980 Fire Alarm and Detection System
- 330.3990 Fire Extinguishers, Electric Wiring, and Miscellaneous
- 330.4000 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART Q: RESIDENT'S RIGHTS

Section

- 330.4210 General
- 330.4220 Medical and Personal Care Program
- 330.4230 Restraints (Repealed)
- 330.4240 Abuse and Neglect
- 330.4250 Communication and Visitation
- 330.4260 Resident's Funds
- 330.4270 Residents' Advisory Council
- 330.4280 Contract With Facility
- 330.4290 Private Right of Action
- 330.4300 Transfer or Discharge
- 330.4310 Complaint Procedures
- 330.4320 Confidentiality
- 330.4330 Facility Implementation

SUBPART R: DAY CARE PROGRAMS

Section

- 330.4510 Day Care in Long-Term Care Facilities
- 330.APPENDIX A Interpretation, Components, and Illustrative Services for Sheltered Care Facilities (Repealed)
- 330.APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service (Repealed)
- 330.APPENDIX C Forms for Day Care in Long-Term Care Facilities
- 330.APPENDIX D Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed)
- 330.APPENDIX E Guidelines for the Use of Various Drugs
- 330.TABLE A Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241, effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill. Reg. 2952, effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18939, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6562, effective April 17, 1989; amended at 13 Ill. Reg. 19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 10125, effective July 15, 1996; amended at 20 Ill. Reg. 12160, effective September 10, 1996; amended at 22 Ill. Reg. 4078, effective February 13, 1998; amended at 22 Ill. Reg. 7203, effective April 15, 1998; amended at 22 Ill. Reg. 16594, effective September 18, 1998; amended at 23 Ill. Reg. 1085, effective January 15, 1999; amended at 23 Ill. Reg. 8064, effective July 15, 1999; amended at 24 Ill. Reg. 17304, effective November 1, 2000; amended at 25 Ill. Reg. 4901, effective April 1, 2001; amended at 26 Ill. Reg. 4859, effective April 1, 2002; amended at 26 Ill. Reg. 10559, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2202, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5473, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5886, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14218, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15880, effective September 25, 2003; amended at 27 Ill. Reg. 18130, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3541, effective

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November 15, 2003; amended at 28 Ill. Reg. 11195, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15156, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12891, effective August 2, 2005; amended at 30 Ill. Reg. 1439, effective January 23, 2006; amended at 30 Ill. Reg. 5260, effective March 2, 2006; amended at 31 Ill. Reg. _____, effective _____.

SUBPART C: POLICIES

Section 330.715 ~~Pre-admission Assessment and Request for~~ Resident Criminal History Record Information

- a) *A facility shall, within 24 hours after admission of a resident, request a criminal history background check pursuant to the Uniform Conviction Information Act [210 ILCS 2635] for all persons 18 or older seeking admission to the facility. Background checks shall be based on the resident's name, date of birth, and other identifiers as required by the Department of State Police. (Section 2-201.5(b) of the Act) Identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of this Section and Section 330.725 of this Part. (Section 2-201.5(b) of the Act)*
- b) *The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us to determine if the individual is listed as a registered sex offender.*
- c) *If the results of the background check are inconclusive, the facility shall initiate a fingerprint-based check, unless the fingerprint check is waived by the Director of Public Health based on verification by the facility that the resident is completely immobile or that the resident meets other criteria related to the resident's health or lack of potential risk, such as the existence of a severe, debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident. (Section 2-201.5(b) of the Act) The facility shall arrange for a fingerprint-based background check or request a waiver from the Department within 5 days after receiving inconclusive results of a name-based background check. The fingerprint-based background check shall be conducted within 25 days after receiving the inconclusive results of the name-based check. Assessment must include the following:*

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- 1) ~~The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us to determine if the individual is listed as a registered sex offender;~~
 - 2) ~~The facility shall request criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police. Persons may be admitted to facilities while the results of a criminal history record request are pending; and~~
 - 3) ~~If the individual has a felony conviction and was in the custody of the Department of Corrections, the facility shall request the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].~~
- d)e) *A waiver issued pursuant to Section 2-201.5 of the Act shall be valid only while the resident is immobile or while the criteria supporting the waiver exist. (Section 2-201.5(d) of the Act)*~~The facility must review the assessments and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 330.720 and 330.725 of this Part. The facility is responsible for the development of a plan of care appropriate to the needs of the identified offender, in accordance with Section 330.725 of this Part. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.~~

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- e) The facility shall provide for or arrange for any required fingerprint-based checks to be taken on the premises of the facility. If a fingerprint-based check is required, the facility shall arrange for it to be conducted in a manner that is respectful of the resident's dignity and that minimizes any emotional or physical hardship to the resident. (Section 2-201.5(b) of the Act) If a facility is unable to conduct a fingerprint-based background check in compliance with this Section, then it shall provide conclusive evidence of the resident's immobility or risk nullification of the waiver issued pursuant to Section 2-201.5 of the Act.
- ~~f)d)~~ If the results of a resident's criminal history background check reveal that the resident is an identified offender as defined in Section 1-114.01 of the Act, the facility shall immediately fax the resident's name and criminal history to the Department pursuant to the requirements of Section 2-201.6 of the Act and Section 330.725 of this Part. (Section 2-201.5(c) of the Act)The facility shall inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation within 48 hours after receiving verification from the Illinois State Police that a prospective or newly admitted resident is an identified offender.
- g) The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based background check are pending; while the results of a request for waiver of a fingerprint-based check are pending; and/or while the Criminal History Analysis Report is pending.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 330.720 Admission and Discharge Policies

- a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.
- b) No resident determined by professional evaluation to be in need of nursing care shall be admitted to or kept in a sheltered care facility. Neither shall any such resident be kept in a distinct part designated and classified for sheltered care.
- c) Homes in Chicago licensed as Residential Care (Half-Way) Homes shall only accept and keep persons requiring residential care. Residential care is defined as maintenance and oversight. Oversight is defined as general watchfulness and

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appropriate action to meet the total needs of residents, exclusive of nursing or personal care, as defined in Chapter 136.1 of the "Municipal Code of the City of Chicago". Oversight shall include, at a minimum, social, recreational, and employment opportunities for residents who, by reason of previous physical or mental disability, or in the opinion of a licensed physician, are in need of residential care.

- d) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to, or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house or outside resources.
- e) No person shall be admitted to or kept in the facility:
 - 1) Who is at risk because the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future, as determined by professional evaluation;
 - 2) Who is destructive of property and that destruction jeopardizes the safety of her/himself or others;
 - 3) Who has serious mental or emotional problems based on medical diagnosis; or
 - 4) Who is an identified offender, unless the assessment requirements of Section 330.715~~(b) and (c)~~ for new admissions and the requirements of Section 330.725 are met.
- f) Children under 18 years of age shall not be cared for in a facility for adults.
- g) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is incompetent, by the resident's guardian.
- h) No resident shall be admitted with a communicable, contagious or infectious disease as set forth in Section 330.1130 of this Part.

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- i) A facility shall not admit more residents than the number authorized by the license issued to it.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 330.724 Criminal History Background Checks for Persons Who are Residents on May 10, 2006

- a) The facility shall, by July 9, 2006, request a criminal history background check pursuant to the Uniform Conviction Information Act for all persons who are residents of the facility on May 10, 2006. (Section 2-201.5(b) of the Act)
- b) If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.
- c) The facility shall be responsible for taking all steps necessary to ensure the safety of all residents while the results of the name-based background check are pending.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 330.725 Identified Offenders

- a) ~~The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.~~
- b) ~~If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.~~
- a)e) The facility shall review the results of the criminal history background checks immediately upon receipt of those checks. If the results of the background check are inconclusive, the facility shall initiate a fingerprint-based check unless the fingerprint-based check is waived by the Director of Public Health based on verification by the facility that the resident is completely immobile or that the resident meets other criteria related to the resident's health or lack of potential risk, such as the existence of a severe, debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident. (Section 2-

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201.5(b) of the Act) The facility shall arrange for a fingerprint-based background check or request a waiver from the Department within 5 days after receiving inconclusive results of a name-based background check. The fingerprint-based background check shall be conducted within 25 days after receiving the inconclusive results of the name-based check. If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.

- b) A waiver issued pursuant to Section 2-201.5 of the Act shall be valid only while the resident is immobile or while the criteria supporting the waiver exist.
- c) The facility shall provide for or arrange for any required fingerprint-based checks to be taken on the premises of the facility.
- d) If a fingerprint-based check is required, the facility shall arrange for it to be conducted in a manner that is respectful of the resident's dignity and that minimizes any emotional or physical hardship to the resident. (Section 2-201.5(b) of the Act) If a facility is unable to conduct a fingerprint-based background check in compliance with this Section, then it shall provide conclusive evidence of the resident's immobility or risk nullification of the waiver issued pursuant to Section 2-201.5 of the Act.
- e) The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based check are pending; while the results of a request for a waiver of a fingerprint-based check are pending; and/or while the Criminal History Analysis Report is pending.
- f) If the results of a resident's criminal history background check reveal that the resident is an identified offender as defined in Section 1-114.01 of the Act, the facility shall immediately fax the resident's name and criminal history information to the Department. (Section 2-201.5(c) of the Act)
- g)d) If identified offenders are residents of a facility, the facility shall comply with all of the following requirements:
 - 1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders who are registered sex offenders or are serving a term of parole, mandatory supervised release or

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probation for a felony offense who are residents of the facility. *If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act, to verify compliance with the requirements of Public Act 94-163 and Public Act 94-752, or to verify compliance with applicable terms of probation, parole, or mandatory supervised release.* (Section 2-110(a-5) of the Act) Reasonable access under this provision shall not interfere with the identified offender's medical or psychiatric care.

- 2) The facility staff shall meet with local law enforcement officials to discuss the need for and to develop, if needed, policies and procedures to address the presence of facility residents who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense, including compliance with Section 330.785 of this Part.
- 3) Every licensed facility shall provide to every prospective and current resident and resident's guardian, and to every facility employee, a written notice, prescribed by the Department, advising the resident, guardian, or employee of his or her right to ask whether any residents of the facility are identified offenders. The facility shall confirm whether identified offenders are residing in the facility. The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification, prescribed by the Department, that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us, the Department of State Police, or local law enforcement agencies.
 - A) The notice shall also be prominently posted within every licensed facility.
 - B) The notice shall include a statement that information regarding registered sex offenders may be obtained from the Illinois State Police website, www.isp.state.il.us, and that information regarding persons serving terms of parole or mandatory supervised release may be obtained from the Illinois Department

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of Corrections website, www.idoc.state.il.us. (Section 2-216 of the Act)

- 4) ~~*The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)*~~
- 4)5) If the identified offender is on probation, ~~or parole,~~ or mandatory supervised release status, the facility ~~shall~~must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record.
- 6) ~~The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation if the probation officer has not, within three days after the identified offender becomes a resident, provided the facility with copies of the following:~~
- A) ~~*pre-sentence investigation reports or social investigation reports;*~~
- B) ~~*any applicable probation orders and corresponding compliance plans;*~~
- C) ~~*the name and contact information for the assigned probation officer. (Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110])*~~
- e) ~~The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act).~~
- h) f) Facilities ~~shall~~must maintain written documentation of compliance with Section 330.715**(b)** of this Part ~~and subsection (a) of this Section.~~
- i) g) Facilities must annually complete all of the steps required in subsection ~~(g)(d)~~ of this Section for identified offenders. This requirement does not apply to residents who have not been discharged from the facility during the previous 12 months.

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- ~~j)h)~~ For current residents who are identified offenders, the facility shall review the security measures listed in the Criminal History Analysis Report provided by the Department. ~~must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of retention in the facility in accordance with subsection (j).~~
- ~~k)i)~~ Upon admission of an identified offender to a facility or a decision to retain an identified offender in a facility, the facility, in consultation with the medical director and law enforcement, shall ~~must~~ specifically address the resident's needs in an individualized plan of care, that reflects the risk assessment of the individual, in accordance with subsection (j) of this Section.
- ~~l)j)~~ The facility shall incorporate the Criminal History Analysis Report into the identified offender's care plan. (Section 2-201.6(f) of the Act) ~~In conducting a risk assessment of an identified offender and developing a plan of care, the facility shall consider the following:~~
- ~~1)~~ The care and supervision needs, if any, specific to the individual's criminal offense;
 - ~~2)~~ The results of the screening conducted pursuant to Section 330.715 of this Part;
 - ~~3)~~ The amount of supervision required by the individual to ensure the safety of all residents, staff and visitors in the facility;
 - ~~4)~~ The physical and mental abilities of the individual;
 - ~~5)~~ The current medical assessments of the individual;
 - ~~6)~~ The individual's needs in relation to his or her status as an identified offender;
 - ~~7)~~ Approaches to resident care that are proactive and are appropriate and effective in dealing with any behaviors specific to the identified offense; and
 - ~~8)~~ The number and qualifications of staff needed to meet the needs of the individual and the required level of supervision at all times.

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- ~~m)k)~~ *If the identified offender is a convicted (see 730 ILCS 150/2) or registered (see 730 ILCS 150/3) sex offender or if the Criminal History Analysis conducted pursuant to Section 2-201.6 of the Act reveals that the identified offender poses a significant risk of harm to others within the facility, the offender shall be required to have his or her own room within the facility subject to the rights of married residents under Section 2-108(e) of the Act. (Section 2-201.6(d) of the Act)The care planning of identified offenders shall include a description of the security measures necessary to protect facility residents from the identified offender, including whether the identified offender should be segregated from other residents. (Section 3-202.3(5) of the Act)*
- n) The facility's reliance on the Criminal History Analysis Report prepared pursuant to Section 2-201.6(d) of the Act shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to the identified offender or other facility residents.
- 1) ~~Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms. The resident must not share his or her room or bathroom with any other resident.~~
- 2) ~~If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:~~
- A) ~~All of the documentation required by subsection (j) of this Section;~~
~~and~~

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- ~~B)~~ whether the individual is dependent on any type of life support system or equipment.
- 3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:
- ~~A)~~ The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;
- ~~B)~~ The length of time since the individual's release from parole, probation, or mandatory supervised release;
- ~~C)~~ The age of the individual at the time of the conviction; and
- ~~D)~~ Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).
- ~~o)h)~~ The facility ~~shall~~must evaluate care plans at least quarterly for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility ~~shall~~must modify the care plan if necessary in response to this evaluation. The facility remains responsible for continuously evaluating the identified offender and for making any changes in the care plan that are necessary to ensure the safety of residents.
- ~~p)m)~~ Incident reports ~~shall~~must be submitted to the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in compliance with Section 330.780 of this Part. The facility ~~shall~~must review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 330.4300 of this Part.

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- q) ~~n)~~ The facility ~~shall~~~~must~~ notify the appropriate local law enforcement agency, the Illinois Prisoner Review Board, or the Department of Corrections of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.
- r) ~~o)~~ The facility ~~shall~~~~must~~ develop procedures for implementing changes in resident care and facility policies when the resident no longer meets the definition of identified offender.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 330.726 Discharge Planning for Identified Offenders

- a) *If, based on the security measures listed in the Criminal History Analysis Report, a facility determines that it cannot manage the identified offender resident safely within the facility, it shall commence involuntary transfer or discharge proceedings pursuant to Section 3-402 of the Act and Section 330.4300 of this Part. (Section 2-201.6(g) of the Act)*
- b) ~~a)~~ All discharges and transfers shall be in accordance with Section 330.4300 of this Part.
- c) *When a resident who is an identified offender is discharged, the discharging facility shall notify the Department.*
- d) ~~b)~~ A facility that admits or retains an identified offender shall have in place policies and procedures for the discharge of an identified offender for reasons related to the individual's status as an identified offender, including, but not limited to:
- 1) The facility's inability to meet the needs of the resident, based on ~~Section 330.715(c) and~~ Section 330.725 of this Part and subsection (a) of this Section;
 - 2) The facility's inability to provide the security measures necessary to protect facility residents, staff and visitors; or
 - 3) The physical safety of the resident, other residents, the facility staff, or facility visitors.

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e) Discharge planning shall be included as part of the plan of care developed in accordance with Section 330.725(k)(+).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 330.727 Transfer of an Identified Offender

a) *If, based on the security measures listed in the Criminal History Analysis Report, a facility determines that it cannot manage the identified offender resident safely within the facility, it shall commence involuntary transfer or discharge proceedings pursuant to Section 3-402 of the Act and Section 330.4300 of this Part. (Section 2-201 of the Act)*

b)a) All discharges and transfers shall be in accordance with Section 330.4300 of this Part.

c)b) When a resident who is an identified offender is transferred to another facility regulated by the Department, the Department of Healthcare and Family Services, or the Department of Human Services, the transferring facility ~~shall~~ must notify the Department and the receiving facility that the individual is an identified offender before making the transfer.

d)e) This notification must include all of the documentation required under Section 330.725 of this Part and subsection (a) of this Section, and the transferring facility must provide this information to the receiving facility to complete the discharge planning.

e)d) If the following information has been provided to the transferring facility from the Department of Corrections, the transferring facility shall provide copies to the receiving facility before making the transfer:

- 1) *The mittimus and any pre-sentence investigation reports;*
- 2) *The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];*
- 3) *Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];*
- 4) *Reports of disciplinary infractions and dispositions;*

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- 5) *Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and*
- 6) *The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)*

(e) The information required by this Section shall be provided upon transfer. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Veterans' Homes Code
- 2) Code Citation: 77 Ill. Adm. Code 340
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
340.1305	Amendment
340.1310	Amendment
340.1314	New
340.1315	Amendment
340.1316	Amendment
340.1317	Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved: The Illinois Veterans' Homes Code (77 Ill. Adm. Code 340) regulates veterans' homes. This rulemaking is being undertaken to implement Public Act 94-0752, enacted by the General Assembly to improve the supervision and care of identified offenders in long-term care facilities.

Section 340.1305 (Pre-Admission Assessment and Request for Criminal History Record Information) is being amended to add statutory language requiring a name-based background check for all new residents, and a fingerprint-based background check if the results of the name-based check are inconclusive. Additional new language provides for a waiver from the fingerprint-based background check under certain conditions and establishes other statutory requirements.

Section 340.1310 (Admission, Retention, and Discharge Policies) is receiving minor changes that reflect the changes to Section 340.1305.

Section 340.1314 (Criminal History Background Checks for Persons Who are Residents on May 10, 2006) is being added so that language requiring background checks for current residents is not confused with language in Section 340.1315, while establishing care requirements for new and existing residents who are identified offenders.

Section 340.1315 (Identified Offenders) is being amended to provide for a waiver from the fingerprint-based background check under certain conditions. Additional amendments implement requirements in P.A. 94-0752 that provide for the care of identified offenders in licensed facilities.

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Section 340.1316 (Discharge Planning for Identified Offenders) and Section 340.1317 (Transfer of an Identified Offender) are being amended to implement language in P.A. 94-0752 dealing with involuntary discharge.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
340.1430	Amendment	30 Ill. Reg. 14808; September 15, 2006

- 11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister
 Division of Legal Services
 Illinois Department of Public Health
 535 West Jefferson St., 5th Floor
 Springfield, Illinois 62761

217/782-2043
 e-mail: rules@idph.state.il.us

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- 13) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: Long-term care facilities
 - B) Reporting, bookkeeping or other procedures required for compliance: Reporting, bookkeeping and record keeping will be necessary for compliance.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

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TITLE 77: PUBLIC HEALTH
 CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
 SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 340
 ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

Section	
340.1000	Definitions
340.1010	Incorporated and Referenced Materials
340.1110	General Requirements
340.1115	Federal Veterans' Regulations
340.1120	Application for License
340.1125	Alzheimer's Special Care Disclosure
340.1130	Criteria for Adverse Licensure Actions
340.1140	Denial of Initial License
340.1150	Revocation or Denial of Renewal of License
340.1160	Inspections, Surveys, Evaluations, and Consultations
340.1170	Presentation of Findings by the Department
340.1190	Ownership Disclosure
340.1200	Monitor and Receivership
340.1210	Determination of a Violation
340.1220	Determination of the Level of a Violation
340.1230	Plans of Correction and Reports of Correction
340.1240	Calculation of Penalties
340.1245	Conditions for Assessment of Penalties
340.1250	Reduction or Waiver of Penalties
340.1255	Supported Congregate Living Arrangement Demonstration
340.1260	Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

Section	
340.1300	Facility Policies
340.1305	Pre-admission Assessment and Request for <u>Resident</u> Criminal History Record Information
340.1310	Admission, Retention and Discharge Policies
<u>340.1314</u>	<u>Criminal History Background Checks for Persons Who Are Residents on May 10,</u>

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340.1315	Identified Offenders
340.1316	Discharge Planning for Identified Offenders
340.1317	Transfer of an Identified Offender
340.1320	Disaster Preparedness
340.1330	Serious Incidents and Accidents
340.1335	Infection Control
340.1340	Facility Record Requirements
340.1350	Personnel Policies
340.1360	Initial Health Evaluation for Employees
340.1370	Administrator
340.1375	Personnel Requirements
340.1376	Registry of Certified Nursing Assistants
340.1377	Health Care Worker Background Check
340.1378	Resident Attendants
340.1380	Contacting Local Law Enforcement

SUBPART C: RESIDENT RIGHTS

Section	
340.1400	Implementation of Resident Rights and Facility Responsibilities
340.1410	General
340.1420	Contract Between Resident and Facility
340.1430	Residents' Advisory Council
340.1440	Abuse and Neglect
340.1450	Communication and Visitation
340.1460	Resident's Funds
340.1470	Transfer or Discharge
340.1480	Complaint Procedures
340.1490	Private Right of Action

SUBPART D: HEALTH SERVICES

Section	
340.1500	Medical Care Policies
340.1505	Medical, Nursing and Restorative Services
340.1510	Communicable Disease Policies
340.1520	Tuberculin Skin Test Procedures
340.1530	Physician Services
340.1535	Dental Programs

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340.1540	Life-Sustaining Treatments
340.1550	Obstetrical and Gynecological Care
340.1560	Nursing Personnel
340.1570	Personal Care
340.1580	Restraints
340.1590	Nonemergency Use of Physical Restraints
340.1600	Emergency Use of Physical Restraints
340.1610	Unnecessary, Psychotropic, and Antipsychotic Drugs
340.1620	Medication Administration (Repealed)
340.1630	Self-Administration of Medication (Renumbered)
340.1640	Vaccinations
340.1645	Language Assistance Services

SUBPART E: MEDICATIONS

Section

340.1650	Medication Policies and Procedures
340.1655	Compliance with Licensed Prescriber's Orders
340.1660	Administration of Medication
340.1665	Control of Medication
340.1670	Labeling and Storage of Medication
340.1675	Self-Administration of Medication

SUBPART F: RESIDENT LIVING SERVICES

Section

340.1700	Recreational and Activity Programs
340.1710	Social Services
340.1720	Work Programs
340.1730	Volunteer Program

SUBPART G: RESIDENT RECORDS

Section

340.1800	Resident Record Requirements
340.1810	Content of Medical Records
340.1820	Records Pertaining to Resident's Property
340.1830	Retention, Transfer, and Inspection of Records
340.1840	Confidentiality of Resident's Records

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SUBPART H: FOOD SERVICE

Section

340.1900	Food Service Staff
340.1910	Diet Orders
340.1920	Meal Planning
340.1930	Therapeutic Diets (Repealed)
340.1940	Menus and Food Records
340.1950	Food Preparation and Service
340.1960	Kitchen Equipment, Utensils and Supplies

SUBPART I: PHYSICAL PLANT SERVICES,
FURNISHINGS, EQUIPMENT AND SUPPLIES

Section

340.2000	Maintenance
340.2010	Water Supply, Sewage Disposal and Plumbing
340.2020	Housekeeping
340.2030	Laundry Services
340.2040	Furnishings
340.2050	Equipment and Supplies

340.TABLE A Heat Index Table/Apparent Temperature

340.TABLE B Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency rule expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; emergency amendment at 20 Ill. Reg. 496, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10045, effective July 15, 1996; amended at 20 Ill. Reg. 12013, effective September 10, 1996; amended at 22 Ill. Reg. 3959, effective February 13, 1998; amended at 22 Ill. Reg. 7162, effective April 15, 1998; amended at 23 Ill. Reg. 1038, effective January 15, 1999; amended at 23 Ill. Reg. 7931, effective July 15, 1999; amended at 24 Ill. Reg. 17225, effective November 1, 2000; amended at 25 Ill. Reg. 4869, effective April 1, 2001; amended at 26 Ill. Reg. 4870, effective April 1, 2002; amended at 26 Ill. Reg. 10589, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2222, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; amended at 27 Ill. Reg. 5903, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14230, effective August 15, 2003, for a maximum of 150

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days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15904, effective September 25, 2003; amended at 27 Ill. Reg. 18148, effective November 15, 2003; amended at 28 Ill. Reg. 11209, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15208, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12924, effective August 2, 2005; amended at 30 Ill. Reg. 1452, effective January 23, 2006; amended at 30 Ill. Reg. 5303, effective March 2, 2006; amended at 31 Ill. Reg. _____, effective _____.

SUBPART B: POLICIES AND FACILITY RECORDS

Section 340.1305 ~~Pre-admission Assessment and Request for Resident~~ Criminal History Record Information

- a) *A facility shall, within 24 hours after admission of a resident, request a criminal history background check pursuant to the Uniform Conviction Information Act [210 ILCS 2635] for all persons 18 or older seeking admission to the facility. Background checks shall be based on the resident's name, date of birth, and other identifiers as required by the Department of State Police. (Section 2-201.5(b) of the Act) Identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of this Section and Section 340.1315 of this Part. (Section 2-201.5(b) of the Act)*
- b) *The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us to determine if the individual is listed as a registered sex offender.*
- c)b) *If the results of the background check are inconclusive, the facility shall initiate a fingerprint-based check, unless the fingerprint check is waived by the Director of Public Health based on verification by the facility that the resident is completely immobile or that the resident meets other criteria related to the resident's health or lack of potential risk, such as the existence of a severe, debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident. (Section 2-201.5(b) of the Act) The facility shall arrange for a fingerprint-based background check or request a waiver from the Department within 5 days after receiving inconclusive results of a name-based background check. The fingerprint-based background check shall be conducted within 25*

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~~days after receiving the inconclusive results of the name-based check. Assessment must include the following:~~

- ~~1) The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us to determine if the individual is listed as a registered sex offender;~~
- ~~2) The facility shall request criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police. Persons may be admitted to facilities while the results of a criminal history record request are pending; and~~
- ~~3) If the individual has a felony conviction and was in the custody of the Department of Corrections, the facility shall request the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].~~

~~d)e) A waiver issued pursuant to Section 2-201.5 of the Act shall be valid only while the resident is immobile or while the criteria supporting the waiver exist. (Section 2-201.5(b) of the Act)The facility must review the assessments and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 340.1310 and 340.1315 of this Part. The facility is responsible for the development of a plan of care appropriate to the needs of the identified offender, in accordance with Section 340.1315 of this Part. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers~~

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~~in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.~~

- e) The facility shall provide for or arrange for any required fingerprint-based checks to be taken on the premises of the facility. If a fingerprint-based check is required, the facility shall arrange for it to be conducted in a manner that is respectful of the resident's dignity and that minimizes any emotional or physical hardship to the resident. (Section 2-201.5(b) of the Act) If a facility is unable to conduct a fingerprint-based background check in compliance with this Section, then it shall provide conclusive evidence of the resident's immobility or risk nullification of the waiver issued pursuant to Section 2-201.5 of the Act.
- f) ~~If the results of a resident's criminal history background check reveal that the resident is an identified offender as defined in Section 1-114.01 of the Act, the facility shall immediately fax the resident's name and criminal history to the Department pursuant to the requirements of Section 2-201.6 of the Act and Section 340.1315 of this Part. (Section 2-201.5(c) of the Act) The facility shall inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation within 48 hours after receiving verification from the Illinois State Police that a prospective or newly admitted resident is an identified offender.~~
- g) The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based background check are pending; while the results of a request for waiver of a fingerprint-based check are pending; and/or while the Criminal History Analysis Report is pending.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 340.1310 Admission, Retention and Discharge Policies

- a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.
- b) No resident determined by professional evaluation to be in need of services not readily available in a particular facility, or distinct part of a facility, or through arrangement with a qualified outside resource, shall be admitted to or kept in that facility. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided.

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- c) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning keeping of persons who become pregnant while they are residents of the facility. If these policies permit these persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to these persons from in-house or outside resources. (See Section 340.1550.)
- d) Residents with a history of aggressive or self-abusive behavior may be admitted only if the facility has in place appropriate, effective and individualized programs to manage the resident's behaviors and adequate, properly trained and supervised staff to administer the programs.
- e) Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Department.
- f) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident or, if the resident is incompetent, by the resident's guardian.
- g) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.
- h) A facility shall document all leaves and temporary transfers. Such documentation shall include date, time, condition of resident, person to whom the resident was released, planned destination, anticipated date of return, and any special instructions on medication dispensed.
- i) No person shall be admitted to or kept in the facility who is an identified offender, unless the requirements of Section 340.1305~~(b) and (c)~~ for new admissions and the requirements of Section 340.1315 are met.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 340.1314 Criminal History Background Checks for Persons Who Are Residents on May 10, 2006

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- a) The facility shall, by July 9, 2006, request a criminal history background check pursuant to the Uniform Conviction Information Act for all persons who are residents of the facility on May 10, 2006. (Section 2-201.5(b) of the Act)
- b) If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.
- c) The facility shall be responsible for taking all steps necessary to ensure the safety of all residents while the results of the name-based background check are pending.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 340.1315 Identified Offenders

- a) ~~The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.~~
- b) ~~If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.~~
- a)e) The facility shall review the results of the criminal history background checks immediately upon receipt of those checks. If the results of the background checks are inconclusive, the facility shall initiate a fingerprint-based check unless the fingerprint-based check is waived by the Director of Public Health based on verification by the facility that the resident is completely immobile or that the resident meets other criteria related to the resident's health or lack of potential risk, such as the existence of a severe, debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident. (Section 2-201.5(b) of the Act) The facility shall arrange for a fingerprint-based background check or request a waiver from the Department within 5 days after receiving inconclusive results of a name-based background check. The fingerprint-based background check shall be conducted within 25 days after receiving the inconclusive results of the name-based background check. If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.

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- b) *A waiver issued pursuant to Section 2-201.5 of the Act shall be valid only while the resident is immobile or while the criteria supporting the waiver exist.*
- c) *The facility shall provide for or arrange for any required fingerprint-based checks to be taken on the premises of the facility.*
- d) *If a fingerprint-based check is required, the facility shall arrange for it to be conducted in a manner that is respectful of the resident's dignity and that minimizes any emotional or physical hardship to the resident. (Section 2-201.5(b) of the Act) If a facility is unable to conduct a fingerprint-based background check in compliance with this Section, then it shall provide conclusive evidence of the resident's immobility or risk nullification of the waiver issued pursuant to Section 2-201.5 of the Act.*
- e) *The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based check are pending; while the results of a request for a waiver of a fingerprint-based check are pending; and/or while the Criminal History Analysis Report is pending.*
- f) *If the results of a resident's criminal history background check reveal that the resident is an identified offender as defined in Section 1-114.01 of the Act, the facility shall immediately fax the resident's name and criminal history information to the Department. (Section 2-201.5(c) of the Act)*
- g)d) If identified offenders are residents of a facility, the facility shall comply with all of the following requirements:
- 1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense who are residents of the facility. *If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act, to verify compliance with the requirements of Public Act 94-163 and Public Act 94-752, or to verify compliance with applicable terms of probation, parole, or mandatory supervised release. (Section 2-110(a-5) of the Act)*

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Reasonable access under this provision shall not interfere with the identified offender's medical or psychiatric care.

- 2) The facility staff shall meet with local law enforcement officials to discuss the need for and to develop, if needed, policies and procedures to address the presence of facility residents who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense, including compliance with Section 340.1380 of this Part.
- 3) Every licensed facility shall provide to every prospective and current resident and resident's guardian, and to every facility employee, a written notice, prescribed by the Department, advising the resident, guardian, or employee of his or her right to ask whether any residents of the facility are identified offenders. The facility shall confirm whether identified offenders are residing in the facility. The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification, prescribed by the Department, that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us, the Department of State Police, or local law enforcement agencies.
 - A) The notice shall also be prominently posted within every licensed facility.
 - B) The notice shall include a statement that information regarding registered sex offenders may be obtained from the Illinois State Police website, www.isp.state.il.us, and that information regarding persons serving terms of parole or mandatory supervised release may be obtained from the Illinois Department of Corrections website, www.idoc.state.il.us. (Section 2-216 of the Act)
- 4) The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)
- 4)5) If the identified offender is on probation, ~~or parole,~~ or mandatory supervised release, status, the facility ~~shall~~must contact the resident's

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probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record.

- 6) ~~The facility must inform the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation if the probation officer has not, within three days after the identified offender becomes a resident, provided the facility with copies of the following:~~
- A) ~~pre-sentence investigation reports or social investigation reports;~~
 - B) ~~any applicable probation orders and corresponding compliance plans;~~
 - C) ~~the name and contact information for the assigned probation officer. (Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110])~~
- e) ~~The facility must inform the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act).~~
- h)† Facilities ~~shall~~must maintain written documentation of compliance with Section 340.1305~~(b)~~ of this Part ~~and subsection (a) of this Section.~~
- i)g) Facilities must annually complete all of the steps required in subsection ~~(g)(d)~~ of this Section for identified offenders. This requirement does not apply to residents who have not been discharged from the facility during the previous 12 months.
- j)h) For current residents who are identified offenders, the facility shall review the security measures listed in the Criminal History Analysis Report provided by the Department. ~~must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of retention in the facility in accordance with subsection (j).~~
- k)†) Upon admission of an identified offender to a facility or a decision to retain an identified offender in a facility, the facility, in consultation with the medical

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director and law enforcement, ~~shall~~must specifically address the resident's needs in an individualized plan of care ~~that reflects the risk assessment of the individual, in accordance with subsection (j) of this Section.~~

- ~~l)j)~~ The facility shall incorporate the Criminal History Analysis Report into the identified offender's care plan. (Section 2-201.6(f) of the Act)~~In conducting a risk assessment of an identified offender and developing a plan of care, the facility shall consider the following:~~
- ~~1) The care and supervision needs, if any, specific to the individual's criminal offense;~~
 - ~~2) The results of the screening conducted pursuant to Section 340.1305 of this Part;~~
 - ~~3) The amount of supervision required by the individual to ensure the safety of all residents, staff and visitors in the facility;~~
 - ~~4) The physical and mental abilities of the individual;~~
 - ~~5) The current medical assessments of the individual;~~
 - ~~6) The individual's needs in relation to his or her status as an identified offender;~~
 - ~~7) Approaches to resident care that are proactive and are appropriate and effective in dealing with any behaviors specific to the identified offense; and~~
 - ~~8) The number and qualifications of staff needed to meet the needs of the individual and the required level of supervision at all times.~~
- ~~m)k)~~ If the identified offender is a convicted (see 720 ILCS 150/2) or registered (see 730 ILCS 150/3) sex offender or if the Criminal History Analysis conducted pursuant to Section 2-201.6 of the Act reveals that the identified offender poses a significant risk of harm to others within the facility, the offender shall be required to have his or her own room within the facility subject to the rights of married residents under Section 2-108(e) of the Act. (Section 2-201.6(d) of the Act)~~The care planning of identified offenders shall include a description of the security measures necessary to protect facility residents from the identified offender,~~

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including whether the identified offender should be segregated from other residents. (Section 3-202.3(5) of the Act)

- 1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms, under the following conditions:
 - A) The room must be in direct view of the main nurses' station; and
 - B) The resident must not share his or her room or bathroom with any other resident.
- 2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:
 - A) All of the documentation required by subsection (j) of this Section; and
 - B) Whether the individual is dependent on any type of life support system or equipment.
- 3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:

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- A) ~~The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;~~
- B) ~~The length of time since the individual's release from parole, probation, or mandatory supervised release;~~
- C) ~~The age of the individual at the time of the conviction; and~~
- D) ~~Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).~~
- n) The facility's reliance on the Criminal History Analysis Report prepared pursuant to Section 2-201.6(d) of the Act shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to the identified offender or other facility residents.
- o)†) The facility ~~shall~~must evaluate care plans at least quarterly for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility ~~shall~~must modify the care plan if necessary in response to this evaluation. The facility remains responsible for continuously evaluating the identified offender and for making any changes in the care plan that are necessary to ensure the safety of residents.
- p)‡) Incident reports ~~shall~~must be submitted to the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in compliance with Section 340.1330 of this Part. The facility ~~shall~~must review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 340.1470 of this Part.
- q)‡) The facility ~~shall~~must notify the appropriate local law enforcement agency, the Illinois Prisoner Review Board, or the Department of Corrections of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.

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- ~~r)~~~~e)~~ The facility ~~shall~~~~must~~ develop procedures for implementing changes in resident care and facility policies when the resident no longer meets the definition of identified offender.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 340.1316 Discharge Planning for Identified Offenders

- ~~a)~~ *If, based on the security measures listed in the Criminal History Analysis Report, a facility determines that it cannot manage the identified offender resident safely within the facility, it shall commence involuntary transfer or discharge proceedings pursuant to Section 3-402 of the Act and Section 340.1470 of this Part. (Section 2-201.6(g) of the Act)*
- ~~b)~~~~a)~~ All discharges and transfers shall be in accordance with Section 340.1470 of this Part.
- ~~c)~~ *When a resident who is an identified offender is discharged, the discharging facility shall notify the Department.*
- ~~d)~~~~b)~~ A facility that admits or retains an identified offender shall have in place policies and procedures for the discharge of an identified offender for reasons related to the individual's status as an identified offender, including, but not limited to:
- 1) The facility's inability to meet the needs of the resident, based on ~~Section 340.1305(e)~~ and Section 340.1315 of this Part *and subsection (a) of this Section;*
 - 2) The facility's inability to provide the security measures necessary to protect facility residents, staff and visitors; or
 - 3) The physical safety of the resident, other residents, the facility staff, or facility visitors.
- ~~e)~~~~e)~~ Discharge planning shall be included as part of the plan of care developed in accordance with Section 340.1315 ~~(k)~~~~(j)~~.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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Section 340.1317 Transfer of an Identified Offender

- a) *If, based on the security measures listed in the Criminal History Analysis Report, a facility determines that it cannot manage the identified offender resident safely within the facility, it shall commence involuntary transfer or discharge proceedings pursuant to Section 3-402 of the Act and Section 340.1470 of this Part. (Section 2-201.6(g) of the Act)*
- b)ⓐ All discharges and transfers shall be in accordance with Section 340.1470 of this Part.
- c)ⓑ When a resident who is an identified offender is transferred to another facility regulated by the Department, the Department of Healthcare and Family Services, or the Department of Human Services, the transferring facility must notify the Department and the receiving facility that the individual is an identified offender before making the transfer.
- d)ⓓ This notification must include all of the documentation required under Section 340.1315 of this Part and subsection (a) of this Section, and the transferring facility must provide this information to the receiving facility to complete the discharge planning.
- e)ⓔ If the following information has been provided to the transferring facility from the Department of Corrections, the transferring facility shall provide copies to the receiving facility before making the transfer:
- 1) *The mittimus and any pre-sentence investigation reports;*
 - 2) *The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];*
 - 3) *Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];*
 - 4) *Reports of disciplinary infractions and dispositions;*
 - 5) *Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and*

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- 6) *The name and contact information for the assigned parole agent and parole supervisor.* (Section 3-14-1 of the Unified Code of Corrections)

1e) The information required by this Section shall be provided upon transfer. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 350
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
350.625	Amendment
350.630	Amendment
350.634	New
350.635	Amendment
350.636	Amendment
350.637	Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved: The Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350) regulates facilities that serve the developmentally disabled. This rulemaking is being undertaken to implement Public Act 94-0752, enacted by the General Assembly to improve the supervision and care of identified offenders in long-term care facilities.

Section 350.625 (Determination of Need Screening and Request for Criminal History Record Information) is being amended to add statutory language requiring a name-based background check for all new residents, and a fingerprint-based background check if the results of the name-based check are inconclusive. Additional new language provides for a waiver from the fingerprint-based background check under certain conditions and establishes other statutory requirements.

Section 350.630 (Admission, Retention, and Discharge Policies) is receiving minor changes that reflect the changes to Section 350.635.

Section 350.634 (Criminal History Background Checks for Persons Who are Residents on May 10, 2006) is being added so that language requiring background checks for current residents is not confused with language in Section 350.635, while establishing care requirements for new and existing residents who are identified offenders.

Section 350.635 (Identified Offenders) is being amended to provide for a waiver from the fingerprint-based background check under certain conditions. Additional amendments implement requirements in P.A. 94-0752 that provide for the care of identified offenders in licensed facilities.

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Section 350.636 (Discharge Planning for Identified Offenders) and Section 350.637 (Transfer of an Identified Offender) are being amended to implement language in P.A. 94-0752 dealing with involuntary discharge.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Registration Citation</u>
350.650	Amendment	30 Ill. Reg. 14817; September 15, 2006

- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister
 Division of Legal Services
 Illinois Department of Public Health
 535 West Jefferson St., 5th Floor
 Springfield, Illinois 62761

217/782-2043

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e-mail: rules@idph.state.il.us

- 13) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: Long-term care facilities
 - B) Reporting, bookkeeping or other procedures required for compliance: Reporting, bookkeeping and record keeping will be necessary for compliance.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
350.110	General Requirements
350.120	Application for License
350.130	Licensee
350.140	Issuance of an Initial License for a New Facility
350.150	Issuance of an Initial License Due to a Change of Ownership
350.160	Issuance of a Renewal License
350.165	Criteria for Adverse Licensure Actions
350.170	Denial of Initial License
350.175	Denial of Renewal of License
350.180	Revocation of License
350.190	Experimental Program Conflicting With Requirements
350.200	Inspections, Surveys, Evaluations and Consultation
350.210	Filing an Annual Attested Financial Statement
350.220	Information to Be Made Available to the Public By the Department
350.230	Information to Be Made Available to the Public By the Licensee
350.240	Municipal Licensing
350.250	Ownership Disclosure
350.260	Issuance of Conditional Licenses
350.270	Monitor and Receivership
350.271	Presentation of Findings
350.272	Determination to Issue a Notice of Violation or Administrative Warning
350.274	Determination of the Level of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plans of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Calculation of Penalties
350.286	Determination to Assess Penalties
350.288	Reduction or Waiver of Penalties

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350.290	Quarterly List of Violators (Repealed)
350.300	Alcoholism Treatment Programs In Long-Term Care Facilities
350.310	Department May Survey Facilities Formerly Licensed
350.315	Supported Congregate Living Arrangement Demonstration
350.320	Waivers
350.330	Definitions
350.340	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section	
350.510	Administrator

SUBPART C: POLICIES

Section	
350.610	Management Policies
350.620	Resident Care Policies
350.625	Determination of Need Screening and Request for Resident Criminal History Record Information
350.630	Admission, Retention and Discharge Policies
350.634	Criminal History Background Checks for Persons Who Are Residents on May 10, 2006
350.635	Identified Offenders
350.636	Discharge Planning for Identified Offenders
350.637	Transfer of an Identified Offender
350.640	Contract Between Resident and Facility
350.650	Residents' Advisory Council
350.660	General Policies
350.670	Personnel Policies
350.675	Initial Health Evaluation for Employees
350.680	Developmental Disabilities Aides
350.681	Health Care Worker Background Check
350.682	Resident Attendants
350.683	Registry of Developmental Disabilities Aides
350.685	Student Interns
350.690	Disaster Preparedness
350.700	Serious Incidents and Accidents
350.750	Contacting Local Law Enforcement
350.760	Infection Control

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SUBPART D: PERSONNEL

- Section
- 350.810 Personnel
- 350.820 Consultation Services
- 350.830 Personnel Policies (Repealed)

SUBPART E: RESIDENT LIVING SERVICES

- Section
- 350.1010 Service Programs
- 350.1020 Psychological Services
- 350.1030 Social Services
- 350.1040 Speech Pathology and Audiology Services
- 350.1050 Recreational and Activities Services
- 350.1055 Volunteer Program
- 350.1060 Training and Habilitation Services
- 350.1070 Training and Habilitation Staff
- 350.1080 Restraints
- 350.1082 Nonemergency Use of Physical Restraints
- 350.1084 Emergency Use of Physical Restraints
- 350.1086 Unnecessary, Psychotropic, and Antipsychotic Drugs
- 350.1088 Language Assistance Services

SUBPART F: HEALTH SERVICES

- Section
- 350.1210 Health Services
- 350.1220 Physician Services
- 350.1223 Communicable Disease Policies
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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17

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Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14990, effective November 15, 1997; amended at 22 Ill. Reg. 4040, effective February 13, 1998; amended at 22 Ill. Reg. 7172, effective April 15, 1998; amended at 22 Ill. Reg. 16557, effective September 18, 1998; amended at 23 Ill. Reg. 1052, effective January 15, 1999; amended at 23 Ill. Reg. 7970, effective July 15, 1999; amended at 24 Ill. Reg. 17254, effective November 1, 2000; amended at 25 Ill. Reg. 4879, effective April 1, 2001; amended at 25 Ill. Reg. 6499, effective May 15, 2001; amended at 26 Ill. Reg. 4878, effective April 1, 2002; amended at 26 Ill. Reg. 10611, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2238, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5489, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5924, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14237, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15924, effective September 25, 2003; amended at 27 Ill. Reg. 18160, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3552, effective November 15, 2003; amended at 28 Ill. Reg. 7653, effective May 24, 2004; amended at 28 Ill. Reg. 11217, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11971, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15247, effective September 23, 2005, for the remainder of the maximum 150 days; emergency expired December 8, 2005; amended at 29 Ill. Reg. 12954, effective August 2, 2005; amended at 30 Ill. Reg. 1460, effective January 23, 2006; amended at 30 Ill. Reg. 5338, effective March 2, 2006; amended at 30 Ill. Reg. 13876, effective August 7, 2006; amended at 31 Ill. Reg. _____, effective _____.

SUBPART C: POLICIES

Section 350.625 Determination of Need Screening and Request for Resident Criminal History Record Information

- a) For the purpose of this Section only, a nursing facility is any bed licensed as a

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skilled nursing or intermediate care facility bed, or a location certified to participate in the Medicare program under Title XVIII of the Social Security Act or Medicaid program under Title XIX of the Social Security Act.

- b) *All persons seeking admission to a nursing facility must be screened to determine the need for nursing facility services prior to being admitted, regardless of income, assets, or funding source.* (Section 2-201.5(a) of the Act) A screening assessment is not required provided one of the conditions in Section 140.642(c) of the rules of the Department of Healthcare and Family Services titled Medical Payment (89 Ill. Adm. Code 140.642(c)) is met.
- c) *Any person who seeks to become eligible for medical assistance from the Medical Assistance program under the Illinois Public Aid Code to pay for long-term care services while residing in a facility shall be screened in accordance with 89 Ill. Adm. Code 140.642(b)(4).* (Section 2-201.5(a) of the Act)
- d) *Screening shall be administered through procedures established by administrative rule by the agency responsible for screening.* (Section 2-201.5(a) of the Act) The Illinois Department on Aging is responsible for the screening required in subsection (b) of this Section for individuals 60 years of age or older who are not developmentally disabled or do not have a severe mental illness. The Illinois Department of Human Services is responsible for the screening required in subsection (b) of this Section for all individuals 18 through 59 years of age and for individuals 60 years of age or older who are developmentally disabled or have a severe mental illness. The Illinois Department of Healthcare and Family Services or its designee is responsible for the screening required in subsection (c) of this Section.
- e) *In addition to the screening required by Section 2-201.5(a) of the Act and this Section, a facility shall, within 24 hours after admission of a resident, request a criminal history background check pursuant to the Uniform Conviction Information Act [20 ILCS 2635] for all persons 18 or older seeking admission to the facility. Background checks shall be based on the resident's name, date of birth, and other identifiers as required by the Department of State Police. (Section 2-201.5(b) of the Act)~~identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of this Section and Section 350.635 of this Part.~~ (Section 2-201.5(b) of the Act)*

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- f) The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us to determine if the individual is listed as a registered sex offender.
- g)† If the results of the background check are inconclusive, the facility shall initiate a fingerprint-based check, unless the fingerprint check is waived by the Director of Public Health based on verification by the facility that the resident is completely immobile or that the resident meets other criteria related to the resident's health or lack of potential risk, such as the existence of a severe, debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident. (Section 2-201.5(b) of the Act) The facility shall arrange for a fingerprint-based check or request a waiver from the Department within 5 days after receiving inconclusive results of a name-based background check. The fingerprint-based background check shall be conducted within 25 days after receiving the inconclusive results of the name-based check. Screening must include the following:
- 1) ~~The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us to determine if the individual is listed as a registered sex offender;~~
 - 2) ~~The facility shall request criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police. Persons may be admitted to facilities while the results of a criminal history record information request are pending; and~~
 - 3) ~~If the individual has a felony conviction and was in the custody of the Department of Corrections, the facility shall request the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].~~
- h)g) A waiver issued pursuant to Section 2-201.5 of the Act shall be valid only while the resident is immobile or while the criteria supporting the waiver exist. (Section 2-201.5(b) of the Act) The facility must review the screenings and all supporting

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~~documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 350.630 and 350.635 of this Part. The facility is responsible for the development of a plan of care appropriate to the needs of the identified offender, in accordance with Section 350.635 of this Part. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.~~

- i) *The facility shall provide for or arrange for required fingerprint-based checks to be taken on the premises of the facility. If a fingerprint-based check is required, the facility shall arrange for it to be conducted in a manner that is respectful of the resident's dignity and that minimizes any emotional or physical hardship to the resident. (Section 2-201.5(b) of the Act) If a facility is unable to conduct a fingerprint-based background check in compliance with this Section, then it shall provide conclusive evidence of the resident's immobility or risk nullification of the waiver issued pursuant to Section 2-201.5 of the Act.*
- j)h) *If the results of a resident's criminal history background check reveal that the resident is an identified offender as defined in Section 1-114.01 of the Act, the facility shall immediately fax the resident's name and criminal history to the Department pursuant to the requirements of Section 2-201.6 of the Act and Section 350.635 of this Part. (Section 2-201.5(c) of the Act)*The facility shall inform the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation within 48 hours after receiving verification from the Illinois State Police that a prospective or newly admitted resident is an identified offender.
- k) The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based background check are pending; while the results of a request for waiver of a fingerprint-based check are pending; and/or while the Criminal History Analysis

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[Report is pending.](#)

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 350.630 Admission, Retention and Discharge Policies

- a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.
- b) Residents shall only be admitted who have had a comprehensive evaluation covering physical, emotional, social and cognitive factors, conducted by an appropriately constituted interdisciplinary team.
- c) No resident determined by professional evaluation to be in need of skilled level of nursing care shall be admitted to, or kept in, an Intermediate Care Facility, or Intermediate Care Facility for the Developmentally Disabled, or any distinct part of the facility designated and classified for intermediate care for the developmentally disabled.
- d) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house or outside resources.
- e) A facility for infants and children under 18 years of age shall be used exclusively for children. Persons under 18 years of age may not be cared for in a facility for adults without prior approval from the Department. Such approval will be granted only when it is the best possible placement for the person under the particular set of circumstances.
- f) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is incompetent, by the resident's guardian.
- g) If a resident insists on being discharged and is discharged against the advice of a physician or a Qualified Mental Retardation Professional, the facts involved in the situation shall be fully documented in the resident's clinical record.

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- h) No resident shall be discharged without the concurrence of the attending physician.
- i) No resident shall be admitted with a communicable, contagious or infectious disease except as set forth in Section 350.1223 of this Part.
- j) A facility shall not admit more residents than the number authorized by the license issued to it.
- k) No identified offender shall be admitted to or kept in a facility, unless the requirements of Section 350.625~~(f) and (g)~~ for new admissions and the requirements of Section 350.635 are met.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 350.634 Criminal History Background Checks for Persons Who Are Residents on May 10, 2006

- a) The facility shall, by July 9, 2006, request a criminal history background check pursuant to the Uniform Conviction Information Act for all persons who are residents of the facility on May 10, 2006. (Section 2-201.5(b) of the Act)
- b) If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.
- c) The facility shall be responsible for taking all steps necessary to ensure the safety of all residents while the results of the name-based background check are pending.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 350.635 Identified Offenders

- a) ~~The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.~~

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- b) ~~If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.~~
- a)e) The facility shall review the results of the criminal history background checks immediately upon receipt of those checks. If the results of the background checks are inconclusive, the facility shall initiate a fingerprint-based check unless the fingerprint-based check is waived by the Director of Public Health based on verification by the facility that the resident is completely immobile or that the resident meets other criteria related to the resident's health or lack of potential risk, such as the existence of a severe, debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident (Section 2-201.5(b) of the Act) The facility shall arrange for a fingerprint-based background check or request a waiver from the Department within 5 days after receiving inconclusive results of a name-based background check. The fingerprint-based background check shall be conducted within 25 days after receiving the inconclusive results of the name-based background check. If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.
- b) A waiver issued pursuant to Section 2-201.5 of the Act shall be valid only while the resident is immobile or while the criteria supporting the waiver exist.
- c) The facility shall provide for or arrange for any required fingerprint-based checks to be taken on the premises of the facility.
- d) If a fingerprint-based check is required, the facility shall arrange for it to be conducted in a manner that is respectful of the resident's dignity and that minimizes any emotional or physical hardship to the resident. (Section 2-201.5(b) of the Act) If a facility is unable to conduct a fingerprint-based background check in compliance with this Section, then it shall provide conclusive evidence of the resident's immobility or risk nullification of the waiver issued pursuant to Section 2-201.5 of the Act.
- e) The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based check are pending; while the results of a request for a waiver of a fingerprint-based check are pending; and/or while the Criminal History Analysis Report is pending.

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- f) *If the results of a resident's criminal history background check reveal that the resident is an identified offender as defined in Section 1-114.01 of the Act, the facility shall immediately fax the resident's name and criminal history information to the Department. (Section 2-201.5(c) of the Act)*
- g)d) If identified offenders are residents of a facility, the facility shall comply with all of the following requirements:
- 1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense who are residents of the facility. *If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act, to verify compliance with the requirements of Public Act 94-163 and Public Act 94-752 or to verify compliance with applicable terms of probation, parole, or mandatory supervised release. (Section 2-110(a-5) of the Act)* Reasonable access under this provision shall not interfere with the identified offender's medical or psychiatric care.
 - 2) The facility staff shall meet with local law enforcement officials to discuss the need for and to develop, if needed, policies and procedures to address the presence of facility residents who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense, including compliance with Section 350.750 of this Part.
 - 3) *Every licensed facility shall provide to every prospective and current resident and resident's guardian, and to every facility employee, a written notice, prescribed by the Department, advising the resident, guardian, or employee of his or her right to ask whether any residents of the facility are identified offenders. The facility shall confirm whether identified offenders are residing in the facility. The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification, prescribed by the Department, that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at*

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~~www.isp.state.il.us, the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us, the Department of State Police, or local law enforcement agencies.~~

- ~~A) *The notice shall also be prominently posted within every licensed facility.*~~
- ~~B) *The notice shall include a statement that information regarding registered sex offenders may be obtained from the Illinois State Police website, www.isp.state.il.us, and that information regarding persons serving terms of parole or mandatory supervised release may be obtained from the Illinois Department of Corrections website, www.idoc.state.il.us. (Section 2-216 of the Act)*~~
- ~~4) *The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)*~~
- ~~4)5) If the identified offender is on probation, ~~or parole,~~ or mandatory supervised release status, the facility ~~shall~~must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record.~~
- ~~6) *The facility must inform the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation if the probation officer has not, within three days after the identified offender becomes a resident, provided the facility with copies of the following:*~~
- ~~A) *pre-sentence investigation reports or social investigation reports;*~~
- ~~B) *any applicable probation orders and corresponding compliance plans;*~~
- ~~C) *the name and contact information for the assigned probation officer. (Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110])*~~
- e) The facility must inform the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation in writing *within 48 hours* after

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determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act).

- ~~h)~~ ^{f)} Facilities ~~shall~~ must maintain written documentation of compliance with Section 350.625(~~f~~) of this Part ~~and subsection (a) of this Section.~~
- ~~i)~~ ^{g)} Facilities ~~shall~~ must annually complete all of the steps required in subsection (~~g~~)(~~d~~) of this Section for identified offenders. This requirement does not apply to residents who have not been discharged from the facility during the previous 12 months.
- ~~j)~~ ^{h)} For current residents who are identified offenders, the facility shall review the security measures listed in the Criminal History Analysis Report provided by the Department ~~must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of retention in the facility in accordance with subsection (j).~~
- ~~k)~~ ⁱ⁾ Upon admission of an identified offender to a facility or a decision to retain an identified offender in a facility, the facility, in consultation with the medical director and law enforcement, ~~shall~~ must specifically address the resident's needs in an individualized plan of care ~~that reflects the risk assessment of the individual, in accordance with subsection (j) of this Section.~~
- ~~l)~~ ^{j)} The facility shall incorporate the Criminal History Analysis Report into the identified offender's care plan. (Section 2-201.6(f) of the Act) ~~In conducting a risk assessment of an identified offender and developing a plan of care, the facility shall consider the following:~~
- ~~1)~~ ¹⁾ The care and supervision needs, if any, specific to the individual's criminal offense;
 - ~~2)~~ ²⁾ The results of the screening conducted pursuant to Section 350.625 of this Part;
 - ~~3)~~ ³⁾ The amount of supervision required by the individual to ensure the safety of all residents, staff and visitors in the facility;
 - ~~4)~~ ⁴⁾ The physical and mental abilities of the individual;

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- ~~5) The current medical assessments of the individual;~~
 - ~~6) The individual's needs in relation to his or her status as an identified offender;~~
 - ~~7) Approaches to resident care that are proactive and are appropriate and effective in dealing with any behaviors specific to the identified offense; and~~
 - ~~8) The number and qualifications of staff needed to meet the needs of the individual and the required level of supervision at all times.~~
- ~~m)k) *If the identified offender is a convicted (see 730 ILCS 150/2) or registered (see 730 ILCS 150/3) sex offender or if the Criminal History Analysis conducted pursuant to Section 2-201.6 of the Act reveals that the identified offender poses a significant risk of harm to others within the facility, the offender shall be required to have his or her own room within the facility subject to the rights of married residents under Section 2-108(e) of the Act. (Section 2-201.6(d) of the Act)The care planning of identified offenders shall include a description of the security measures necessary to protect facility residents from the identified offender, including whether the identified offender should be segregated from other residents. (Section 3-202.3(5) of the Act)*~~
- n) The facility's reliance on the Criminal History Analysis Report prepared pursuant to Section 2-201.6(d) of the Act shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to the identified offender or other facility residents.
- ~~1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms. The resident must not share his or her room or bathroom with any other resident.~~
 - ~~2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or~~

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~~indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:~~

~~A) All of the documentation required by subsection (j) of this Section; and~~

~~B) whether the individual is dependent on any type of life support system or equipment.~~

~~3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:~~

~~A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;~~

~~B) The length of time since the individual's release from parole, probation, or mandatory supervised release;~~

~~C) The age of the individual at the time of the conviction; and~~

~~D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).~~

o)† The facility ~~shall~~must evaluate care plans at least quarterly for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility ~~shall~~must modify the care plan if necessary in response to this evaluation. The facility remains responsible for continuously evaluating the identified offender and for making any changes in the care plan that are necessary to ensure the safety of residents.

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- p)m) Incident reports ~~shall~~**must** be submitted to the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in compliance with Section 350.700 of this Part. The facility ~~shall~~**must** review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 350.3300 of this Part.
- q)n) The facility ~~shall~~**must** notify the appropriate local law enforcement agency, the Illinois Prisoner Review Board, or the Department of Corrections of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.
- r)o) The facility ~~shall~~**must** develop procedures for implementing changes in resident care and facility policies when the resident no longer meets the definition of identified offender.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 350.636 Discharge Planning for Identified Offenders

- a) *If, based on the security measures listed in the Criminal History Analysis Report, a facility determines that it cannot manage the identified offender resident safely within the facility, it shall commence involuntary transfer or discharge proceedings pursuant to Section 3-402 of the Act and Section 350.3300 of this Part. (Section 2-201.6(g) of the Act)*
- b)a) All discharges and transfers shall be in accordance with Section 350.3300 of this Part.
- c) *When a resident who is an identified offender is discharged, the discharging facility shall notify the Department.*
- d)b) A facility that admits or retains an identified offender shall have in place policies and procedures for the discharge of an identified offender for reasons related to the individual's status as an identified offender, including, but not limited to:

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- 1) The facility's inability to meet the needs of the resident, based on ~~Section 350.625(f)~~ and Section 350.635 of this Part and subsection (a) of this Section;
 - 2) The facility's inability to provide the security measures necessary to protect facility residents, staff and visitors; or
 - 3) The physical safety of the resident, other residents, the facility staff, or facility visitors.
- ~~e)e)~~ Discharge planning shall be included as part of the plan of care developed in accordance with Section 350.635(~~k~~)(~~f~~).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 350.637 Transfer of an Identified Offender

- a) *If, based on the security measures listed in the Criminal History Analysis Report, a facility determines that it cannot manage the identified offender resident safely within the facility, it shall commence involuntary transfer or discharge proceedings pursuant to Section 3-402 of the Act and Section 350.3300 of this Part. (Section 2-201.6(g) of the Act)*
- ~~b)a)~~ All discharges and transfers shall be in accordance with Section 350.3300 of this Part.
- ~~c)b)~~ When a resident who is an identified offender is transferred to another facility regulated by the Department, the Department of Healthcare and Family Services, or the Department of Human Services, the transferring facility must notify the Department and the receiving facility that the individual is an identified offender before making the transfer.
- ~~d)e)~~ This notification must include all of the documentation required under Section 350.635 of this Part and subsection (a) of this Section, and the transferring facility must provide this information to the receiving facility to complete the discharge planning.

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e) If the following information has been provided to the transferring facility from the Department of Corrections, the transferring facility shall provide copies to the receiving facility before making the transfer:

- 1) *The mittimus and any pre-sentence investigation reports;*
- 2) *The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];*
- 3) *Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];*
- 4) *Reports of disciplinary infractions and dispositions;*
- 5) *Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and*
- 6) *The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)*

f) The information required by this Section shall be provided upon transfer. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 390
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
390.330	Amendment
390.625	Repealer
390.630	Amendment
390.635	Repealer
390.636	Repealer
390.637	Repealer
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved: The Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390) regulates licensure of long-term care facilities that serve patients under age 22. This rulemaking is being undertaken to implement Public Act 94-0752, enacted by the General Assembly to improve the supervision and care of identified offenders in long-term care facilities and to omit long-term care for under age 22 facilities from the identified offender requirements.

Section 390.330 (Definitions) is being amended to delete the definition for “identified offender.”

Section 390.625 (Pre-Admission Assessment and Request for Criminal History Record Information) is being repealed.

Section 390.630 (Admission, Retention, and Discharge Policies) is being amended to delete all references to identified offenders.

Section 390.635 (Identified Offenders) is being repealed.

Section 390.636 (Discharge Planning for Identified Offenders) and Section 390.637 (Transfer of an Identified Offender) are being repealed.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
390.650	Amendment	30 Ill. Reg. 14831; September 15, 2006

- 11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister
 Division of Legal Services
 Illinois Department of Public Health
 535 West Jefferson St., 5th Floor
 Springfield, Illinois 62761

217/782-2043
 e-mail: rules@idph.state.il.us

- 13) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: Long-term care facilities
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 390
LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

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390.130	Licensee
390.140	Issuance of an Initial License for a New Facility
390.150	Issuance of an Initial License Due to a Change of Ownership
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390.220	Information to be Made Available to the Public by the Department
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390.276	Notice of Violation
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390.282	Conditions for Assessment of Penalties
390.284	Calculation of Penalties
390.286	Determination to Assess Penalties
390.288	Reduction or Waiver of Penalties
390.290	Quarterly List of Violators (Repealed)

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390.300	Alcoholism Treatment Programs in Long-Term Care Facilities
390.310	Department May Survey Facilities Formerly Licensed
390.315	Supported Congregate Living Arrangement Demonstration
390.320	Waivers
390.330	Definitions
390.340	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section	
390.500	Administrator

SUBPART C: POLICIES

Section	
390.610	Management Policies
390.620	Resident Care Policies
390.625	Pre-admission Assessment and Request for Criminal History Record Information <u>(Repealed)</u>
390.630	Admission, Retention and Discharge Policies
390.635	Identified Offenders <u>(Repealed)</u>
390.636	Discharge Planning for Identified Offenders <u>(Repealed)</u>
390.637	Transfer of an Identified Offender <u>(Repealed)</u>
390.640	Contract Between Resident and Facility
390.650	Residents' Advisory Council
390.660	General Policies
390.670	Personnel Policies
390.675	Initial Health Evaluation for Employees
390.680	Child Care/Habilitation Aides
390.681	Health Care Worker Background Check
390.682	Resident Attendants
390.683	Registry of Child Care/Habilitation Aides
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390.690	Disaster Preparedness
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- 390.810 General
- 390.820 Categories of Personnel
- 390.830 Consultation Services

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- 390.1020 Medical Services
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SUBPART F: RESTRAINTS AND BEHAVIOR MANAGEMENT

Section

- 390.1310 Restraints
- 390.1312 Nonemergency Use of Physical Restraints
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- 390.1316 Unnecessary, Psychotropic, and Antipsychotic Drugs
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SUBPART G: MEDICATIONS

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- 390.1410 Medication Policies and Procedures
- 390.1420 Compliance with Licensed Prescriber's Orders
- 390.1430 Administration of Medication

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- 390.1440 Labeling and Storage of Medications
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SUBPART H: RESIDENT AND FACILITY RECORDS

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- 390.1610 Resident Record Requirements
- 390.1620 Content of Medical Records
- 390.1630 Confidentiality of Resident's Records
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SUBPART J: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section

- 390.2010 Maintenance
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SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

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Section

- 390.2210 Furnishings
- 390.2220 Equipment and Supplies
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Section

- 390.2410 Codes
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SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

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- 390.2610 Applicability of these Standards
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- 390.2930 Preparation of Drawings and Specifications
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390.2980	Treatment and Personal Care
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390.3210	General
390.3220	Medical and Personal Care Program
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SUBPART P: DAY CARE PROGRAMS

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390.3510	Day Care in Long-Term Care Facilities
390.APPENDIX A	Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age (Repealed)
390.APPENDIX B	Forms for Day Care in Long-Term Care Facilities
390.APPENDIX C	Guidelines for the Use of Various Drugs
390.TABLE A	Infant Feeding
390.TABLE B	Daily Nutritional Requirements By Age Group
390.TABLE C	Sound Transmissions Limitations
390.TABLE D	Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age
390.TABLE E	Sprinkler Requirements

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390.TABLE F Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1982; emergency amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective November 8, 1982; amended at 6 Ill. Reg. 14678, effective November 15, 1982; amended at 7 Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984; amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1, 1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6301, effective April 17, 1989; amended at 13 Ill. Reg. 19521, effective December 1, 1989; amended at 14 Ill. Reg. 14904, effective October 1, 1990; amended at 15 Ill. Reg. 1878, effective January 25, 1991; amended at 16 Ill. Reg. 623, effective January 1, 1992; amended at 16 Ill. Reg. 14329, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2390, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill. Reg. 19235, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 15, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10106, effective July 15, 1996; amended at 20 Ill. Reg. 12101, effective September 10, 1996; amended at 22 Ill. Reg. 4062, effective February 13, 1998; amended at 22 Ill. Reg. 7188, effective April 15, 1998; amended at 22 Ill. Reg. 16576, effective September 18, 1998; amended at 23 Ill. Reg. 1069, effective January 15, 1999; amended at 23 Ill. Reg. 8021, effective July 15, 1999; amended at 24 Ill. Reg. 17283, effective November 1, 2000; amended at 25 Ill. Reg. 4890, effective April 1, 2001; amended at 26 Ill. Reg. 4890, effective April 1, 2002; amended at 26 Ill. Reg. 10645, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2258, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5509, effective March 25, 2003, for a maximum of 150

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days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5947, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14250, effective August 15, 2003, for a maximum of 150 days; emergency expired January 12, 2004; amended at 27 Ill. Reg. 15949, effective September 25, 2003; amended at 27 Ill. Reg. 18204, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3565, effective November 15, 2003; amended at 28 Ill. Reg. 11231, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 12025, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15301, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12988, effective August 2, 2005; amended at 30 Ill. Reg. 1473, effective January 23, 2006; amended at 30 Ill. Reg. 5383, effective March 2, 2006; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 390.330 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

Abuse – any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

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Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Access – the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act – as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program – a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior – the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment – a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 390.1310 as a physical restraint.

Addition – any construction attached to the original building which increases the area or cubic content of the building.

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Adequate – enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning – a notice to a facility issued by the Department under Section 390.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator – the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate – means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly – any person providing direct personal care, training or habilitation services to residents.

Alteration – any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident – a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including

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the ascent and descent of stairs.

Applicant – any person making application for a license. (Section 1-107 of the Act)

Appropriate – term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment – the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist – a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Autism – a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave – an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel – all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement – when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification – treatment to be used to establish or change behavior patterns.

Cerebral Palsy – a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

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Certification for Title XVIII and XIX – the issuance of a document by the Department to the Department of Health and Human Services or the Department of Healthcare and Family Services verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse – a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint – any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide – any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives – service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract – a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract – a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience – the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 390.1310 of this Part.

Corporal Punishment – painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident – failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

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Dentist – any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department – as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide – any person who provides nursing, personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability – means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care,

receptive and expressive language,

learning,

mobility,

self-direction,

capacity for independent living, and

economic self-sufficiency; and

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reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.1 of the Act)

Dietetic Service Supervisor – a person who:

is a dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph of this definition.

Dietitian – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision – work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director – the Director of the Department of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service – the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

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Discharge – the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline – any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part – an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency – a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy – a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility – any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care – a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled – when used in this Part, is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility – a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county

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home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5] or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-

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Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65];

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3]. (Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age – when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total habilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care – when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance, and personal care.

Facility, Skilled Nursing – when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility – having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time – on duty a minimum of 36 hours, four days per week.

Goal – an expected result or condition that involves a relatively long period of

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time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5].
(Section 1-114 of the Act)

Habilitation – an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Information Management Consultant – a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor (Director of Nursing Service) – the full-time Registered Nurse who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged – any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.

Hospitalization – the care and treatment of a person in a hospital as an inpatient.

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~~*Identified Offender— a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act, is a registered sex offender, or is serving a term of parole, mandatory supervised release, or probation for a felony offense. (Section 1-114.01 of the Act)*~~

Individual Education Program (IEP) – a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) – a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Interdisciplinary Team – a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator – a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse – a person with a valid Illinois license to practice as a practical nurse.

Licensee – the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract – a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance – food, shelter, and laundry services. (Section 1-116 of the Act)

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Maladaptive Behavior – impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Mentally Retarded and Mental Retardation – subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property – using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory – unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident – any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor – a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect – a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious;
or

a resident required medical treatment as a result of the alleged failure; or

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the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility – any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization – the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse – a registered nurse or a licensed practical nurse as defined in the *Nursing and Advanced Practice Nursing Act* [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Assistant – any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Financial and Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care – a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit – a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective – an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) – a person who is registered as an

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occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant – a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator – the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury – occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight – general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner – the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person – any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care – assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered – a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant

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pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint – any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant – a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist – a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician – any person licensed by the State of Illinois to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License – an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist – a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist – a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional – a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional – a person who meets the educational, technical and ethical

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criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours – any time between the hours of 10:00 a.m. and 8:00 p.m. daily. (Section 1-121 of the Act)

Registered Nurse – a person with a valid Illinois license to practice as a registered professional nurse under the Nursing and Advanced Practice Nursing Act.

Repeat Violation – for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character – having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident – person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director – the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative – a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

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Act)

Restorative Care – a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room – a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization – the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory – same as adequate.

Seclusion – the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation – the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Sheltered Care – maintenance and personal care. (Section 1-124 of the Act)

Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal – the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization – the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation – any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Story – when used in this Part, means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

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Student Intern – means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate institution; or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance – meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 390.140(a)(3) and 390.150(a)(3).

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 390.165(b)(1).

Sufficient – same as adequate.

Supervision – authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist – a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out – removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

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Title XVIII – Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX – Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer – a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit – an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes – a common record with periodic narrative documentation by all persons involved in resident care.

Valid License – a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART C: POLICIES

Section 390.625 Pre-admission Assessment and Request for Criminal History Record Information (Repealed)

- a) *Identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of this Section and Section 390.635 of this Part. (Section 2-201.5(b) of the Act)*

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- b) ~~To the extent authorized and accessible by law for persons under age 22, assessment must include the following:~~
- 1) ~~The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us to determine if the individual is listed as a registered sex offender;~~
 - 2) ~~The facility shall request criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police. Persons may be admitted to facilities while the results of a criminal history record information request are pending; and~~
 - 3) ~~If the individual has a felony conviction and was in the custody of the Department of Corrections, the facility shall request the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].~~
- e) ~~The facility must review the assessments and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Section 390.630 and 390.635 of this Part. The facility is responsible for the development of a plan of care appropriate to the needs of the identified offender, in accordance with Section 390.635 of this Part. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.~~

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- d) ~~The facility shall inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation within 48 hours after receiving verification from the Illinois State Police that a prospective or newly admitted resident is an identified offender.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 390.630 Admission, Retention and Discharge Policies

- a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.
- b) A facility shall admit only residents who have had a comprehensive evaluation of their medical history and physical and psycho/social factors conducted by an appropriately constituted interdisciplinary team. No resident determined by professional evaluation to be in need of services not readily available in a particular facility shall be admitted to or kept in that facility. Additionally, emotional and cognitive histories shall be evaluated when applicable and available.
- c) A facility for persons under 22 years of age shall be used exclusively for persons under 22 years of age, except when the facility's interdisciplinary team has determined that either initial or continued placement in the facility is appropriate because of the resident's physical and mental functioning status, and that the facility has the service resources to meet the needs of the resident. The facility interdisciplinary team shall further determine that placement shall not constitute a serious danger to the other residents.
- d) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is a minor, by the resident's parent or guardian.
- e) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.
- f) No resident shall be discharged without the concurrence of the attending physician. If such approval is given, the facility shall have the right to discharge or transfer a resident to an appropriate resource in accordance with Sections 3-401 through 3-423 of the Act.

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- g) A facility shall not admit more residents than the number authorized by the license issued to it.
- h) ~~No identified offender shall be admitted to or kept in the facility, unless the requirements of Section 390.625(b) and (c) for new admissions and the requirements of Section 390.635 are met.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 390.635 Identified Offenders (Repealed)

- a) ~~The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.~~
- b) ~~If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.~~
- c) ~~If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.~~
- d) ~~If identified offenders are residents of a facility, the facility shall comply with all of the following requirements:~~
- 1) ~~The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense who are residents of the facility. *If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or mandatory supervised release. (Section 2-110 of the Act)* Reasonable access under this provision shall not interfere with the identified offender's medical or psychiatric care.~~
 - 2) ~~The facility staff shall meet with local law enforcement officials to discuss the need for and to develop, if needed, policies and procedures to address~~

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- ~~the presence of facility residents who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense, including compliance with Section 390.700 of this Part.~~
- 3) ~~The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification, prescribed by the Department, that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us, the Department of State Police, or local law enforcement agencies.~~
- 4) ~~The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)~~
- 5) ~~If the identified offender is on probation or parole status, the facility must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record.~~
- 6) ~~The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation if the probation officer has not, within three days after the identified offender becomes a resident, provided the facility with copies of the following:~~
- A) ~~pre-sentence investigation reports or social investigation reports;~~
- B) ~~any applicable probation orders and corresponding compliance plans;~~
- C) ~~the name and contact information for the assigned probation officer. (Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110])~~
- e) ~~The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act).~~

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- f) ~~Facilities must maintain written documentation of compliance with Section 390.625(b) of this Part and subsection (a) of this Section.~~
- g) ~~Facilities must annually complete all of the steps required in subsection (d) of this Section for identified offenders. This requirement does not apply to residents who have not been discharged from the facility during the previous 12 months.~~
- h) ~~For current residents who are identified offenders, the facility must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of retention in the facility in accordance with subsection (j).~~
- i) ~~Upon admission of an identified offender to a facility or a decision to retain an identified offender in a facility, the facility, in consultation with the medical director and law enforcement, must specifically address the resident's needs in an individualized plan of care that reflects the risk assessment of the individual, in accordance with subsection (j) of this Section.~~
- j) ~~In conducting a risk assessment of an identified offender and developing a plan of care, the facility shall consider the following:~~
 - 1) ~~The care and supervision needs, if any, specific to the individual's criminal offense;~~
 - 2) ~~The results of the screening conducted pursuant to Section 390.625 of this Part;~~
 - 3) ~~The amount of supervision required by the individual to ensure the safety of all residents, staff and visitors in the facility;~~
 - 4) ~~The physical and mental abilities of the individual;~~
 - 5) ~~The current medical assessments of the individual;~~
 - 6) ~~The individual's needs in relation to his or her status as an identified offender;~~
 - 7) ~~Approaches to resident care that are proactive and are appropriate and effective in dealing with any behaviors specific to the identified offense; and~~

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- 8) ~~The number and qualifications of staff needed to meet the needs of the individual and the required level of supervision at all times.~~
- k) ~~The care planning of identified offenders shall include a description of the security measures necessary to protect facility residents from the identified offender, including whether the identified offender should be segregated from other residents. (Section 3-202.3(5) of the Act)~~
- 1) ~~Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms, under the following conditions:~~
- A) ~~The room must be in direct view of the main nurses' station; and~~
 - B) ~~The resident must not share his or her room or bathroom with any other resident.~~
- 2) ~~If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:~~
- A) ~~All of the documentation required by subsection (j) of this Section; and~~
 - B) ~~Whether the individual is dependent on any type of life support system or equipment.~~

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- 3) ~~In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:~~
- ~~A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;~~
 - ~~B) The length of time since the individual's release from parole, probation, or mandatory supervised release;~~
 - ~~C) The age of the individual at the time of the conviction; and~~
 - ~~D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).~~
- l) ~~The facility must evaluate care plans quarterly for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility must modify the care plan if necessary in response to this evaluation.~~
- m) ~~Incident reports must be submitted to the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in compliance with Section 390.700 of this Part. The facility must review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 390.3300 of this Part.~~
- n) ~~The facility must notify the appropriate local law enforcement agency, the Illinois Prisoner Review Board, or the Department of Corrections of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.~~
- o) ~~The facility must develop procedures for implementing changes in resident care and facility policies when the resident no longer meets the definition of identified offender.~~

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(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 390.636 Discharge Planning for Identified Offenders (Repealed)

- a) ~~All discharges and transfers shall be in accordance with Section 390.3300 of this Part.~~
- b) ~~A facility that admits or retains an identified offender shall have in place policies and procedures for the discharge of an identified offender for reasons related to the individual's status as an identified offender, including, but not limited to:~~
 - 1) ~~The facility's inability to meet the needs of the resident, based on Section 390.625(c) and Section 390.635 of this Part;~~
 - 2) ~~The facility's inability to provide the security measures necessary to protect facility residents, staff and visitors; or~~
 - 3) ~~The physical safety of the resident, other residents, the facility staff, or facility visitors.~~
- e) ~~Discharge planning shall be included as part of the plan of care developed in accordance with Section 390.635(j).~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 390.637 Transfer of an Identified Offender (Repealed)

- a) ~~All discharges and transfers shall be in accordance with Section 390.3300 of this Part.~~
- b) ~~When a resident who is an identified offender is transferred to another facility regulated by the Department, the Department of Healthcare and Family Services, or the Department of Human Services, the transferring facility must notify the Department and the receiving facility that the individual is an identified offender before making the transfer.~~
- e) ~~This notification must include all of the documentation required under Section 390.635 of this Part, and the transferring facility must provide this information to the receiving facility to complete the discharge planning.~~

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- d) ~~If the following information has been provided to the transferring facility from the Department of Corrections, the transferring facility shall provide copies to the receiving facility before making the transfer:~~
- ~~1) *The mittimus and any pre-sentence investigation reports;*~~
 - ~~2) *The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];*~~
 - ~~3) *Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];*~~
 - ~~4) *Reports of disciplinary infractions and dispositions;*~~
 - ~~5) *Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and*~~
 - ~~6) *The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)*~~
- e) ~~The information required this Section shall be provided upon transfer. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Anhydrous Ammonia Security Grant Program
- 2) Code Citation: 8 Ill. Adm. Code 217
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
217.10	New Action
217.20	New Action
217.30	New Action
217.40	New Action
217.50	New Action
217.60	New Action
217.70	New Action
217.75	New Action
217.80	New Action
217.90	New Action
217.100	New Action
217.110	New Action
217.120	New Action
217.130	New Action
217.140	New Action
217.150	New Action
217.160	New Action
217.170	New Action
217.180	New Action
217.190	New Action
217.200	New Action
- 4) Statutory Authority: Authorized by Section 205-450 of the Department of Agriculture Law of the Civil Administrative Code [20 ILCS 205/205-450].
- 5) Effective Date of Rules: November 15, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, 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: July 14, 2006; 30 Ill. Reg. 12057

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- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: Various grammatical and nonsubstantive technical changes were made throughout the Part. In addition, the following changes were made:

In Section 217.20, "for a reimbursable grant" is added after "Department".

In Section 217.40, the cite is changed to "Department of Agriculture Law of the Civil Administrative Code of Illinois [20 ILCS 205]; in the definition of "Act", replace "Public Act 94-553, effective 8-12-05 [20 ILCS 205/205-450]" with "Section 205-450 of the Department of Agriculture Law of the Civil Administrative Code"; in the definition of "Agreement", the word "Grant" is inserted before "Agreement" and is moved to the definition after "Grant"; in the definition of "Grant", add another sentence, "The grant will be paid as a reimbursement for expenditures made pursuant to a grant agreement."; in the definition of "Grant Amount", after "that", insert "will be paid to a grantee as the State's portion of the project costs (see Section 217.100)" and delete the remaining sentence; after "Grant Amount", add a new definition, "Grant Cycle" means the two grant application periods during each fiscal year."; in the definition of "Nurse Tank", add "mobile" in front of "vessel" and after "purposes", insert "and that is refilled from permanent foundation storage tanks"; in the definition of "Person", delete "a normal person" and replace with "an individual"; after the definition of "Project", add a new definition, "Representative" is a person designated by the applicant/grantee who is authorized to sign grant applications, grant agreements, grant reports and other documents of the grantee."; after the definition of "State", add a new definition, "Storage Tank" means a large volume, stationary tank used for holding anhydrous ammonia."

Section 217.50(c) now reads "An application shall contain one original and seven copies."

In Section 217.50(d), delete "supporting" and after "documents", add "that the applicant believes will support the grant request. It shall also include any other information the Department may request on a cases by case basis."

In Section 217.70, deleted "Based on availability of funding the Department may establish pilot programs."

A new section, "217.75 Pilot Program", is added.

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In Section 217.80(b) after "Department", add "to coincide with two standard anhydrous ammonia application seasons, one in the first quarter and one in the third quarter. For FY07, a pilot program will be conducted in the following 21 counties: Adams, Brown, Calhoun, Cass, Christian, Fulton, Greene, Hancock, Henderson, Jersey, Macoupin, Mason, McDonough, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler, Scott, Warren."

In Section 217.80, add a new subparagraph after adding the above, "c) If funding allows, the pilot program will be expanded beyond the 21 counties."

In Section 217.80, add a new subparagraph "d) Public notice of the availability of funding and the application due dates will be published in the State newspaper and on the Department's website. (originally part of Section 217.80(b)) If an application is received but deemed by the Department to be incomplete, it will be returned to the applicant with a statement of inadequacies. A corrected and complete application must be received by the announced deadline. Return of an incomplete application does not change the need to meet the required submission deadline. Applications received after that deadline will be held for the next renewal cycle."

In Section 217.100(b), replace "may" with "shall".

In Section 217.100(b)(2), delete "an equity" and replace with "a 33% applicant, 67% State".

Section 217.100(b)(3) now reads as follows: "3) An adequate and realistic budget has been projected."

In Section 217.100(b)(4), the first sentence begins "The application provides a brief..." and "Brief" is deleted.

In Section 217.100(b)(5), "There is favorable" is deleted and replaced with "Favorable" and "exists" is inserted after "officials".

In Section 217.100(b)(8), insert two additional sentences, "For FY07, the program will be limited to projects located in the counties specified in Section 217.80. After that period, an expanded geographic area will be served, based on available funding."

Section 217.100(c)(1) through (3) are deleted.

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Section 217.100(c)(4) is changed to "9)" and "proposals that demonstrate" is replaced with "The proposal demonstrates"; after "providing", insert "multiple layers" and strike "a layer".

Section 217.100(d) is changed to Section 217.100(c).

Section 217.100(e) is changed to Section 217.100(d); In the sentence, "The Director will determine whether an eligible application...", "application" is changed to "applicant".

Section 217.100(f) is changed to Section 217.100(e).

In Section 217.110(a), the last sentence is deleted and replaced with: "The Director's decision on the granting of funds is a final decision of the Department subject to the Administrative Review Law [735 ILCS 5/Art.III].".

In Section 217.120(a), "or the Director's designee" is deleted. The last sentence now reads, "The project shall not be initiated and costs shall not be incurred prior to a grant agreement being executed.".

In Section 217.120(b), the sentence now begins, "The agreement shall meet at least the following requirements:".

After Section 217.120(b), insert the following subparagraphs:

- "1) Be signed by the Department and the representative of the grantee;
- 2) Specify that payment will be made on a reimbursable basis, what constitutes permissible expenditures of the grant funds, and the financial controls applicable to the grant;
- 3) Contain a provision that all funds remaining at the end of the grant agreement or the expiration of the period of time grant funds are available for expenditures or obligation by the grantee, shall be returned to the Department within 45 days.".

Section 217.120(b)(1) now becomes Section 217.120(b)(4) and starts out "Contain a", and "A" is deleted.

Section 217.120(b)(2) now becomes Section 217.120(b)(5) and starts out "Identify", and "An identification of" is deleted.

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Section 217.120(b)(3) now becomes Section 217.120(b)(6) and starts out "Identify", and "An identification of" is deleted.

Section 217.120(b)(4) now becomes Section 217.120(b)(7) and starts out "Specify the", and "The" is deleted.

Section 217.120(b)(5) now becomes Section 217.120(b)(8) and reads, "Include the following irrevocable covenants by the grantee:".

After Section 217.120(b)(8), a new subparagraph is added, "A) to pay the grantee's portion of the total project cost (see Section 217.130);".

Section 217.120(b)(6) now becomes Section 217.120(b)(8)(B): "B) not to assign or transfer, during the tenure of the grant agreement, any of the rights, duties or obligations of the grantee without the written consent of the Department;".

Section 217.120(b)(7) is deleted.

Section 217.120(b)(8) now becomes Section 217.120(b)(8)(C), and "A covenant" and "any accrued interest" are deleted.

Section 217.120(b)(9) now becomes Section 217.120(b)(8)(D), and "A covenant" is deleted.

Section 217.120(b)(10) now becomes Section 217.120(b)(9); "The" is deleted and replaced with "specify the".

Section 217.120(b)(11) now becomes Section 217.120(b)(10); "Dates" is deleted and replaced with "specify the dates".

Section 217.120(c) and subparagraphs (1) through (3) are deleted.

In Section 217.130, "Equity Contribution" is replaced with "Grantee Contribution".

In Section 217.130, the first sentence is deleted and replaced with, "The grantee must provide 33% of the total project cost. The grantee's contribution shall:".

Section 217.130(a) reads as follows, "be identified as intended expenditures in the grant application;" everything else is deleted.

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In Section 217.130(b), "be" is inserted after "not".

In Section 217.130(c), "be" is inserted before "necessary".

In Section 217.140(a), "Director of the Director's designee" (two locations) is deleted and replaced with "Department".

In Section 217.140(b), in the first sentence, "or as required by statute" is deleted; the second sentence is deleted.

In Section 217.140, a new subsection (c) is added and reads as follows, "The grantee shall not assess any costs of complying with this Section against the Department."

In Section 217.150, "Director, or the Director's designee," is deleted (two locations) and replaced with "Department"; in the second sentence, "may" is replaced with "shall" and "under the terms of this provision" is deleted.

In Section 217.160(a), replace "he" with "the grantee" and insert a period after "default"; strike "and" and insert "The grantee"; after "If the", insert "grantee has not implemented a corrective action plan" and delete "violation is not corrected".

In Section 217.160(b), after "terminated", insert "by the Department"; after "circumstances:", set forth the remaining paragraph in subparagraphs as follows: "1) failure to comply with the terms and conditions of the grant agreement; 2) repeated failure to submit required reports; 3) misapplication of grant funds; 4) failure to provide the equity contribution required by Section 217.130; 5) evidence of fraud or abuse; 6) failure to maintain required records; 7) repeated failure to meet performance timelines or standards; and 8) failure to develop and implement a corrective action plan within 15 calendar days after the Department's notice."

In Section 217.160(c), replace "continual" with "continued".

In Section 217.160(d), replace "when" with "if"; insert a comma after "grant", delete "or", "deappropriated or", and "if".

In Section 217.160(e); after "Department", insert "of any plans to terminate the grant in advance of the termination, but no later than" and delete "within"; replace "may" with "shall"; delete "additional"; and after "payments" insert "for any reimbursement for which the expenditure was made after the date of termination."; delete "not yet made to the grantee."

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In Section 217.170(a), after "as", insert "stated in the grant agreement" and delete "determined by the Department".

In Section 217.170(b), "liquidated within the period of time" is deleted.

Section 217.170(d) is deleted.

Section 217.170(e) now becomes Section 217.170(d).

Section 217.170(f) is deleted.

Section 217.170(g) now becomes Section 217.170(e).

Section 217.170(h) is deleted.

Section 217.170(i) is deleted.

In Section 217.180, "Subpart" is replaced with "Part".

In Section 217.190(b), after "his" insert "or her"; delete the comma and insert "or" after "designee"; replace the comma after "Director" with a period and delete the rest of that sentence; in the last sentence of subparagraph (b), insert "or her" after "his".

In Section 217.190(c), after "Section 217.60(b)", insert "after the grant has been accepted for review".

Section 217.190(d) is added with the following language "d) Department employees will be appointed by the Director to provide staff assistance to the Review Committee.".

- 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 rulemaking replace any emergency rulemaking currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: The Department is implementing a pilot grant program to improve safety and security at anhydrous ammonia facilities in an effort to prevent anhydrous ammonia theft. In addition, these rules will help promote safety for farmers,

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agribusinesses, farmworkers, neighbors, law enforcement, first responders, and members of the public in the event of an emergency involving anhydrous ammonia leaks or spills.

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

Linda Rhodes
Illinois Department of Agriculture
P. O. Box 19281, State Fairgrounds
Springfield, Illinois 62794-9281

Telephone: 217/785-5713
Facsimile: 217/785-4505

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

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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER e: FERTILIZERSPART 217
ANHYDROUS AMMONIA SECURITY GRANT PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	
217.10	Purpose
217.20	Applicability
217.30	Severability
217.40	Definitions
217.50	Application Requirements
217.60	Application Procedures
217.70	Eligibility
217.75	Pilot Program
217.80	Fund Availability and Submission Deadlines
217.90	Computation of Time
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217.110	Award of Grants
217.120	Grant Agreement
217.130	Grantee Contribution
217.140	Maintenance of Records and Audit
217.150	Inspection
217.160	Default or Termination of Grant Agreement
217.170	Administrative Standards for Grant Recipients
217.180	Prevailing Wage

SUBPART B: REVIEW COMMITTEE

217.190	Review Committee
217.200	Conflict of Interest

AUTHORITY: Authorized by Section 205-450 of the Department of Agriculture Law of the Civil Administrative Code [20 ILCS 205/205-450].

SOURCE: Emergency rule adopted at 30 Ill. Reg. 12323, effective June 29, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18588, effective November 15, 2006.

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SUBPART A: GENERAL PROVISIONS

Section 217.10 Purpose

This Part provides regulations for the implementation and operation of a grant program for the purpose of improving safety and security at anhydrous ammonia facilities to prevent anhydrous ammonia theft and inhibit the use of anhydrous ammonia for the purpose of manufacturing methamphetamine while promoting safety for farmers, agribusinesses, farmworkers, neighbors, law enforcement, first responders and members of the public.

Section 217.20 Applicability

This Part applies to anhydrous ammonia facilities located in Illinois for which a grant application has been filed with the Department for a reimbursable grant to pay a portion of the costs associated with obtaining and implementing approved facility safety and security measures including the utilization of anhydrous ammonia additives, installing tank locking devices, and installation of other security measures to prevent the use of anhydrous ammonia in the illegal manufacture of methamphetamine.

Section 217.30 Severability

If any provision of this Part or its application to any person or under any other circumstances is adjudged invalid, that adjudication does not affect the validity of this Part as a whole or of any portion not adjudged invalid.

Section 217.40 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 shall be the same as that applied to the same words or terms in the Department of Agriculture Law of the Civil Administrative Code of Illinois [20 ILCS 205]. For the purposes of this Part, the terms included in this Section shall have the following meanings:

"Act" means Section 205-450 of the Department of Agriculture Law of the Civil Administrative Code [20 ILCS 205/205-450].

"Agribusiness" means any sole proprietorship, limited partnership, co-partnership, joint venture, corporation, or cooperative that operates or will operate a facility or agricultural process located within the State of Illinois that is related to the

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processing of agricultural commodities (including, but not limited to, the products of aquaculture, hydroponics, and silviculture) or the manufacturing, production, or construction of agricultural buildings, structures, equipment, implements, and supplies, or any other facilities or processes used in agricultural production.

"Agribusiness" includes but is not limited to the following:

grain handling and processing, including grain storage, drying, treatment, conditioning, milling, and packaging;

seed and feed grain development and processing;

fruit and vegetable processing, including preparation, canning, and packaging;

processing of livestock and livestock products, dairy products, poultry and poultry products, fish or apiarian products, including slaughter, shearing, collecting, preparation, canning, and packaging;

fertilizer and agricultural chemical manufacturing, processing, application and supplying;

farm machinery, equipment, and implement manufacturing and supplying;

manufacturing and supplying of agricultural commodity processing machinery and equipment, including machinery and equipment used in slaughter, treatment, handling, collecting, preparation, canning, or packaging of agricultural commodities;

farm building and farm structure manufacturing, construction, and supplying;

construction, manufacturing, implementation, supplying, or servicing of irrigation, drainage, and soil and water conservation devices or equipment;

fuel processing and development facilities that produce fuel from agricultural commodities or by-products;

facilities and equipment for processing and packaging agricultural commodities specifically for export;

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facilities and equipment for forestry product processing and supplying, including sawmilling operations, wood chip operations, timber harvesting operations, and manufacturing of prefabricated buildings, paper, furniture, or other goods from forestry products; and

facilities and equipment for research and development of products, processes, and equipment for the production, processing, preparation, or packaging of agricultural commodities and by-products.

"Anhydrous Ammonia Facility" means any sole proprietorship, limited partnership, co-partnership, joint venture, corporation, or cooperative that owns, operates or manages an enterprise located within the State of Illinois that is related to the processing or use of anhydrous ammonia.

"Applicant" means a person submitting an application for program funds appropriated under the Act.

"Application" means a written request for program funds containing the required information and attachments.

"Department" means the Illinois Department of Agriculture.

"Director" means the Director of the Illinois Department of Agriculture.

"Eligible Project" means a project that is eligible or approved for funding as defined in Sections 217.70 and 217.100 of this Part.

"Fiscal Year" means July 1 of one year through June 30 of the following year, the fiscal year of the State of Illinois.

"Grant" means an Anhydrous Ammonia Security Grant authorized by the Act and this Part. The grant will be paid as a reimbursement for expenditures made pursuant to a grant agreement

"Grant Agreement" means a written document executed between the grantee and the Department setting forth the terms and conditions of the grant.

"Grant Amount" means an amount that will be paid to a grantee as the State's portion of the project costs (see Section 217.100).

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"Grant Cycle" means the two grant application periods during each fiscal year.

"Grantee" means an Illinois person or agribusiness that has been awarded a grant in accordance with the Act and this Part.

"Implements of Husbandry" means a farm wagon-type tank vehicle of not over 3000 gallons capacity, used as a nurse tank supplying the anhydrous ammonia to a field applicator, and moved on highways only for transporting anhydrous ammonia from a local source of supply to farms or fields or from one farm or field to another.

"Nurse Tank" means a mobile vessel designed and constructed for the storage and handling of anhydrous ammonia for legal purposes and that is refilled from permanent foundation storage tanks.

"Person" means, unless limited to an individual by the context in which it is used, a person, corporation, association, trust, partnership, limited partnership, joint venture or cooperative.

"Project" means the activity or program of activities described by the applicant in the application and approved by the Department.

"Representative" means a person designated by the applicant/grantee who is authorized to sign grant applications, grant agreements, grant reports and other documents of the grantee.

"Review Committee" means the committee appointed by the Director to review and evaluate grant applications and make recommendations to the Director for the award of grants.

"State" means the State of Illinois.

"Storage Tank" means a large volume, stationary tank used for holding anhydrous ammonia.

"Total Project Cost" means all necessary and reasonable costs related to the completion of the project as identified in the budget of the grant agreement.

Section 217.50 Application Requirements

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- a) All communications relating to the application procedures defined in this Subpart shall be sent to the Illinois Department of Agriculture, Division of Agricultural Industry Regulation, Bureau of Agricultural Products Inspection, State Fairgrounds, P. O. Box 19281, Springfield, Illinois 62794-9281.
- b) An application shall be typed or computer generated using the approved format provided by the Department. The application will include identifying information about the applicant, project name and cost estimates, funding request, a description of matching funds and in-kind contributions, and related information.
- c) An application shall contain one original and seven copies.
- d) An applicant must complete and sign an application before it is submitted to the Department. The application must include information and documents that the applicant believes will support the grant request. It shall also include any other information the Department may request on a case-by-case basis that will enable the application to be evaluated based on the criteria described in Section 217.120 of this Part.

Section 217.60 Application Procedures

- a) The Department may require the applicant to submit other information reasonably related to a determination of applicant or project eligibility or project feasibility.
- b) The Department may request the applicant or representative to present an oral presentation to the Review Committee of the project. That presentation must be made by the project applicant.

Section 217.70 Eligibility

Any person or agribusiness that owns, operates or manages an anhydrous ammonia facility in Illinois that sells and distributes anhydrous ammonia for agricultural purposes in Illinois is eligible to receive a grant.

Section 217.75 Pilot Program

For at least FY07, the Department will conduct the Anhydrous Ammonia Security Grant as a pilot program in limited geographic area described in Section 217.80. After that period, the program will be expanded as funding allows.

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Section 217.80 Fund Availability and Submission Deadlines

- a) Upon request, the Department will supply applicants with an application package.
- b) Applications for funding under the Act will be made available on a schedule determined by the Department to coincide with two standard anhydrous ammonia application seasons, one in the first quarter and one in the third quarter. For FY07, a pilot program will be conducted in the following 21 counties: Adams, Brown, Calhoun, Cass, Christian, Fulton, Greene, Hancock, Henderson, Jersey, Macoupin, Mason, McDonough, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler, Scott, Warren.
- c) If funding allows, the pilot program will be expanded beyond the 21 counties.
- d) Public notice of the availability of funding and the application due dates will be published in the State newspaper and on the Department's website. If an application is received but deemed by the Department to be incomplete, it will be returned to the applicant with a statement of inadequacies. A corrected and complete application must be received by the announced deadline. Return of an incomplete application does not change the need to meet the required submission deadline. Applications received after that deadline will be held for the next renewal cycle.

Section 217.90 Computation of Time

Computation of any period of time prescribed by this Part shall begin with the first business day following the day on which the act, event or development initiating that period of time occurs, and shall continue until the end of the last day, or the end of the next business day if the last day is a Saturday, Sunday or federal or State holiday. When the period of time is 5 days or less, Saturday, Sunday and federal or State holidays shall be excluded in the computation of time. Computation of time shall be determined by the postmark date or the date of hand delivery.

Section 217.100 Review of Grant Applications

- a) Those applications that are deemed complete by the application submission deadline by the Department will be sent to a Review Committee for the review of the grant applications.
- b) The Review Committee shall meet and review and evaluate the applications in accordance with the criteria listed in this Section, as applicable:

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- 1) The project has a reasonable assurance of enhancing the safety and security of anhydrous ammonia tanks and storage facilities in Illinois.
 - 2) The applicant demonstrates a personal commitment by providing a 33% applicant, 67% State contribution to the project.
 - 3) An adequate and realistic budget has been projected.
 - 4) The application provides a brief history of the anhydrous ammonia facility and description of problems with anhydrous ammonia theft at the facility and previous attempts to stop the theft.
 - 5) Favorable community support for the project, including support from local law enforcement officials, exists.
 - 6) The application meets the eligibility requirements and the project costs are eligible under the Act.
 - 7) The applicant has established a need for the grant.
 - 8) Geographic location of project. For FY07, the program will be limited to projects located in the counties specified in Section 217.80. After that period, an expanded geographic area will be served, based on available funding.
 - 9) The proposal demonstrates that the applicant will install or utilize more than one type of safety or security device or measure that will result in providing multiple layers of security for ammonia storage tanks or nurse tanks at the facility.
- c) If an applicant has received a grant in previous grant cycles and the Department experienced any problems with the applicant's handling of the grant, the Review Committee may evaluate an application based upon the applicant's previous grant performance in the areas of:
- 1) Accountability;
 - 2) Timeliness; and

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- 3) Effectiveness.
- d) After the Review Committee has completed evaluating each application, the Review Committee will submit its recommendations for awarding the grants to the Director. The Director will determine whether an eligible applicant is awarded a grant, as outlined in Section 217.110.
- e) The Review Committee may also recommend to the Director that conditions be placed on certain grants, as deemed necessary by the Review Committee.

Section 217.110 Award of Grants

- a) The Director may accept or reject the Review Committee's recommendations. The Director may impose additional or lesser requirements for the grant as deemed necessary and may change the amount of the grant recommended by the Review Committee. The Director has final decision-making authority on the awarding of grants. The Director's decision on the granting of funds is a final decision of the Department subject to the Administrative Review Law [735 ILCS 5/Art. III].
- b) If the Review Committee recommends to award a grant less than the amount requested, and the Director concurs, the Department shall confer with the applicant to determine whether a reduction in the grant request will preclude the applicant from performing the project's stated or modified scope of work. The Director will consider the applicant's response in deciding whether to award a grant for that project.

Section 217.120 Grant Agreement

- a) When a grant has been awarded, the grantee and the Department shall execute an agreement. The grant will be subject to the requirements of the Illinois Grant Funds Recovery Act [30 ILCS 705]. The project shall not be initiated and costs shall not be incurred prior to a grant agreement being executed.
- b) The agreement shall meet at least the following requirements:
 - 1) Be signed by the Department and the representative of the grantee;

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- 2) Specify that payment will be made on a reimbursable basis, what constitutes permissible expenditures of the grant funds, and the financial controls applicable to the grant;
- 3) Contain a provision that all funds remaining at the end of the grant agreement or the expiration of the period of time grant funds are available for expenditures or obligation by the grantee shall be returned to the Department within 45 days;
- 4) Contain a recitation of legal authority pursuant to which the agreement is made;
- 5) Identify the project scope and schedule and the work or services to be performed or conducted by the grantee;
- 6) Identify the grant amount;
- 7) Specify the conditions, timing, and manner in which the Department shall pay the grant amount, subject to annual appropriation by the General Assembly;
- 8) Include the following irrevocable covenants by the grantee:
 - A) to pay the grantee's portion of the total project cost (see Section 217.130);
 - B) not to assign or transfer, during the tenure of the grant agreement, any of the rights, duties or obligations of the grantee, without the written consent of the Department;
 - C) that the grantee shall expend the grant amount only for the purposes of the project as stated in the grant agreement and approved by the Department;
 - D) that the grantee shall refrain from entering into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under the Act;
- 9) specify the starting and termination dates of the agreement; and

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- 10) specify the dates for submitting progress reports and other requirements.

Section 217.130 Grantee Contribution

The grantee must provide 33% of the total project cost. The grantee's contribution shall:

- a) be identified as intended expenditures in the grant application;
- b) not be funds from other Department or State funded grant programs; and
- c) be necessary and irrevocably obligated to the project.

Section 217.140 Maintenance of Records and Audit

- a) The grantee must keep records of all activities undertaken in connection with implementation of the grant proposal. The books, records, documents, and accounting procedures and practices of the grantee related to the grant are subject to review by the Department. The grantee must give the Department designee access during normal business hours to all business records related to the project.
- b) All financial documents, books, receipts, orders, expenditures, electronic data and accounting procedures and practices of the grantee are subject to examination by or for the Department at any time for 3 years following the completion of the grant.
- c) The grantee shall not assess any costs of complying with this Section against the Department.

Section 217.150 Inspection

During the term of a grant, the Department may inspect the operation of the business and any of the grant projects. The grantee shall not assess any costs generated by this Section against the Department.

Section 217.160 Default or Termination of Grant Agreement

- a) If the grantee violates any of the terms of the grant agreement, the Department shall send a written notice to the grantee that the grantee is in default. The grantee will be given the opportunity to correct the violations. If the grantee has

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not implemented a corrective action plan within 15 calendar days after receipt of the notification, the Director may do one or more of the following:

- 1) Cease additional grant payments not yet made to the grantee;
 - 2) Terminate the grant agreement;
 - 3) Institute recovery of the grant funds under the Illinois Grant Funds Recovery Act [30 ILCS 705];
 - 4) Take any other action considered appropriate to protect the Department's interest in the project.
- b) A grant may be terminated by the Department under, but termination is not limited to, any of the following circumstances:
- 1) failure to comply with the terms and conditions of the grant agreement;
 - 2) repeated failure to submit required reports;
 - 3) misapplication of grant funds;
 - 4) failure to provide the equity contribution required by Section 217.130;
 - 5) evidence of fraud and abuse;
 - 6) failure to maintain required records;
 - 7) repeated failure to meet performance timelines or standards; and
 - 8) failure to develop and implement a corrective action plan within 15 calendar days after the Department's notice.
- c) The Department may terminate the grant, in whole or in part, when the Department determines that the continuation of the project would not produce beneficial results commensurate with the continued expenditures of funds.
- d) The Department may terminate the grant, in whole or in part, if the Illinois General Assembly or federal funding source fails to make an appropriation sufficient to pay the obligation or to allow the Department to operate as required

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to fulfill its obligations under the grant, funds are not allocated, or the funds needed by the Department are insufficient for any reason.

- e) The recipient may refuse or elect not to complete the grant agreement and terminate the grant. The recipient shall notify the Department of any plans to terminate the grant in advance of the termination, but no later than 10 days after the date upon which performance ceases. The Department shall declare due and payable the total amount of the grant and will cease grant payments for any reimbursement for which the expenditure was made after the date of termination.

Section 217.170 Administrative Standards for Grant Recipients

- a) The grant shall have a period of completion as stated in the grant agreement.
- b) Grant funds must be expended or obligated within the period of the grant agreement and in accordance with the Illinois Grant Funds Recovery Act [30 ILCS 705].
- c) Payments to the recipient pursuant to a grant are subject to the initiation of an invoice voucher and receipt of an expenditure summary or documentation of expenses.
- d) If the grant recipient expends funds contrary to the provisions of the grant agreement, that action shall require the repayment of those funds.
- e) Grantee must submit a quarterly report, as specified in the grant agreement, on the financial status of the project and provide narrative reports on the activities and achievement results based on the objectives of the project.

Section 217.180 Prevailing Wage

Grants awarded under this Part may be subject to the Prevailing Wage Act [820 ILCS 130].

SUBPART B: REVIEW COMMITTEE

Section 217.190 Review Committee

- a) The Review Committee shall review and evaluate all grant applications based upon the criteria specified in this Part and make recommendations to the Director for the award of grants.

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- b) The Review Committee shall consist of the Director, or his or her designee or various employees of the Department selected by the Director. The Director or his or her designee shall be the Chairman of the Committee.
- c) The Review Committee shall not have any oral or written communication with applicants other than that outlined by Section 217.60(b) after the grant has been accepted for review.
- d) Department employees will be appointed by the Director to provide staff assistance to the Review Committee.

Section 217.200 Conflict of Interest

No member of the Review Committee may participate in, or vote on, a decision of the Review Committee relating to an organization or entity in which that individual has a direct financial interest.

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- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3))

<u>Section Numbers:</u>	<u>Adopted Action:</u>
310.100	Amendment
310.490	Amendment
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a]
- 5) Effective Date of Amendments: November 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposed Published in the Illinois Register: July 14, 2006; 30 Ill. Reg. 12060
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The changes to the Table of Contents, main source notes, and most of the Sections 310.100 and 490 are based on the following: the emergency amendments at 30 Ill. Reg. 12340, effective July 1, 2006, for a maximum of 150 days; the preemptory amendments at 30 Ill. Reg. 12418, effective July 1, 2006; the proposed amendments adopted at 30 Ill. Reg. 12761, effective July 17, 2006; the preemptory amendments at 30 Ill. Reg. 13547, effective August 1, 2006; the preemptory amendments at 30 Ill. Reg. 15059, effective September 5, 2006; the preemptory amendments at 30 Ill. Reg. 16439, effective September 27, 2006; the emergency amendments at 30 Ill. Reg. 16626, October 3, 2006, for a maximum of 150 days; and preemptory amendment at 30 Ill. Reg. 17603, effective October 20, 2006.

Otherwise, the changes in Section 310.100(e) and in Section 310.490(p) are to add language to clarify to whom interim assignment applies, that interim assignment changes the creditable service date, the pay treatment based on the position to which the employee is assigned on an interim basis, and to provide consistency in Pay Plan formatting.

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- 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 rulemaking replace an emergency rulemaking currently in effect? Yes, both emergency amendments published at 30 Ill. Reg. 12340 and 30 Ill. Reg. 16626.
- 14) Are there any amendments pending on this Part? Yes.

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
310.50	Amendment	30 Ill. Reg. 15240, September 29, 2006
310.100	Amendment	30 Ill. Reg. 15240, September 29, 2006
310.280	Amendment	30 Ill. Reg. 15240, September 29, 2006
310.290	Amendment	30 Ill. Reg. 15240, September 29, 2006
310.295	New Section	30 Ill. Reg. 15240, September 29, 2006
310.410	Amendment	30 Ill. Reg. 15240, September 29, 2006
310.490	Amendment	30 Ill. Reg. 15240, September 29, 2006
310.500	Amendment	30 Ill. Reg. 15240, September 29, 2006
310.Appendix A Table J	Amendment	30 Ill. Reg. 15240, September 29, 2006
310.Appendix A Table Q	Amendment	30 Ill. Reg. 15240, September 29, 2006
310.Appendix A Table W	Amendment	30 Ill. Reg. 15240, September 29, 2006
310.Appendix A Table X	Amendment	30 Ill. Reg. 15240, September 29, 2006
310.Appendix B	Amendment	30 Ill. Reg. 15240, September 29, 2006
310.290	Amendment	30 Ill. Reg. 16504, October 20, 2006
310.Appendix C	Amendment	30 Ill. Reg. 16504, October 20, 2006
310.Appendix D	Amendment	30 Ill. Reg. 16504, October 20, 2006
310.Appendix G	Amendment	30 Ill. Reg. 16504, October, 20 2006

- 15) Summary and Purpose of Amendments: In Section 310.100(d)(4), the opening sentence clarifies to which employees assigned to a higher-level position classification the temporary assignment applies.

Also in Section 310.100, a new subsection (e) is added explaining interim assignment pay. Interim assignment is defined in emergency and proposed amendments to the Personnel Rules (80 Ill. Adm. Code 302.150) where the emergency amendments are also effective July 1, 2006.

In Section 310.100, the subsections following the new subsection (e) are renumbered.

In Section 310.100, the renumbered subsection (f)(3) has a change to the compensation of equivalent earned time to permit only equivalent earned time accrued during June of one

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fiscal year to be carried over for use prior to August of the immediately following fiscal year.

In Section 310.100, the renumbered subsection (j) has a change, which is to add the leave to serve in an interim assignment and thereby establishing the salary treatment upon the employee's return from the leave.

Section 310.490(e)(3) has a change to the compensation of equivalent earned time to permit only equivalent earned time accrued during June of one fiscal year to be carried over for use prior to August of the immediately following fiscal year.

Section 310.490(i) has a change, which is to add the leave to serve in an interim assignment and thereby establishing the salary treatment upon the employee's return from the leave.

Section 310.490(k) has a change, which is to properly name what was called extra duty pay as temporary assignment pay when required to use second language ability and explain it.

In Section 310.490, a change is to add a new subsection (p) to explain interim assignment pay within the merit compensation system.

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

Mr. Jason Doggett, Acting Manager of Compensation Section
Division of Technical Services and Agency Training and Development
Department of Central Management Services, Bureau of Personnel
504 William G. Stratton Building
Springfield IL 62706

217/782-7964 Fax: 217/524-4570
CMS.PayPlan@Illinois.gov

17) Does this rulemaking 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 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.45	Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate
310.240	Daily or Hourly Rate Conversion
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Legislated and Contracted Rate
310.280	Designated Rate

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310.290	Out-of-State or Foreign Service Rate
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections (Repealed)
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section	
310.410	Jurisdiction
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases
310.455	Intermittent Merit Increase
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units (Repealed)
310.520	Conversion of Base Salary to Daily or Hourly Equivalent
310.530	Implementation
310.540	Annual Merit Increase Guidechart
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)
310.APPENDIX A	Negotiated Rates of Pay
310.TABLE A	HR-190 (Department of Central Management Services – State of Illinois Building – SEIU) (Repealed)
310.TABLE B	HR-200 (Department of Labor – Chicago, Illinois – SEIU) (Repealed)
310.TABLE C	RC-069 (Firefighters, AFSCME) (Repealed)
310.TABLE D	HR-001 (Teamsters Local #726)
310.TABLE E	RC-020 (Teamsters Local #330)
310.TABLE F	RC-019 (Teamsters Local #25)
310.TABLE G	RC-045 (Automotive Mechanics, IFPE)

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310.TABLE H	RC-006 (Corrections Employees, AFSCME)
310.TABLE I	RC-009 (Institutional Employees, AFSCME)
310.TABLE J	RC-014 (Clerical Employees, AFSCME)
310.TABLE K	RC-023 (Registered Nurses, INA)
310.TABLE L	RC-008 (Boilermakers)
310.TABLE M	RC-110 (Conservation Police Lodge)
310.TABLE N	RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
310.TABLE Q	RC-033 (Meat Inspectors, IFPE)
310.TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S	HR-012 (Fair Employment Practices Employees, SEIU) (Repealed)
310.TABLE T	HR-010 (Teachers of Deaf, IFT)
310.TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V	CU-500 (Corrections Meet and Confer Employees)
310.TABLE W	RC-062 (Technical Employees, AFSCME)
310.TABLE X	RC-063 (Professional Employees, AFSCME)
310.TABLE Y	RC-063 (Educators, AFSCME)
310.TABLE Z	RC-063 (Physicians, AFSCME)
310.TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
310.TABLE AB	VR-007 (Plant Maintenance Engineers, Operating Engineers) (Repealed)
310.APPENDIX B	Schedule of Salary Grade Pay Grades – Monthly Rates of Pay
310.APPENDIX C	Medical Administrator Rates
310.APPENDIX D	Merit Compensation System Salary Schedule
310.APPENDIX E	Teaching Salary Schedule (Repealed)
310.APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
310.APPENDIX G	Broad-Band Pay Range Classes Salary Schedule

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11,

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1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; preemptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; preemptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; preemptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; preemptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; preemptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; preemptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; preemptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; preemptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; preemptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; preemptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; preemptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988,

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for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; preemptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; preemptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; preemptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; preemptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; preemptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; preemptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; preemptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; preemptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; preemptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; preemptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; preemptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; preemptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; preemptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; preemptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill.

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Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; preemptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; preemptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; preemptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; preemptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; preemptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; preemptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; preemptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; preemptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; preemptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; preemptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; preemptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; preemptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; preemptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; preemptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; preemptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill.

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Reg. 16344, effective December 9, 1997; preemptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; preemptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; preemptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; preemptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; preemptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; preemptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; preemptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; preemptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; preemptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; preemptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; preemptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; preemptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; preemptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; preemptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; preemptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; preemptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; preemptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; preemptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; preemptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; preemptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; preemptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; preemptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill.

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Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20, 2001; peremptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223, effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; peremptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; peremptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; peremptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; peremptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28 Ill. Reg. 2684, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; peremptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; peremptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; peremptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; peremptory amendment at 28 Ill. Reg. 13247, effective September 20, 2004; peremptory amendment at 28 Ill. Reg. 13656, effective September 27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; emergency expired March 13, 2005; peremptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; peremptory amendment at 28 Ill. Reg. 15336, effective November 15, 2004; peremptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; peremptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; peremptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; peremptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; peremptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005; peremptory amendment at 29 Ill. Reg. 4125, effective February 23, 2005; amended at 29 Ill. Reg. 5375, effective April 4, 2005; peremptory amendment at 29 Ill. Reg. 6105, effective April 14, 2005; peremptory amendment at 29 Ill. Reg. 7217, effective May 6, 2005; peremptory amendment at 29 Ill. Reg. 7840, effective May 10, 2005; amended at 29 Ill. Reg. 8110, effective May 23, 2005; peremptory amendment at 29 Ill. Reg. 8214, effective May 23, 2005; peremptory amendment at 29 Ill. Reg. 8418, effective June 1, 2005; amended at 29 Ill. Reg. 9319, effective July 1, 2005; peremptory amendment at 29

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Ill. Reg. 12076, effective July 15, 2005; preemptory amendment at 29 Ill. Reg. 13265, effective August 11, 2005; amended at 29 Ill. Reg. 13540, effective August 22, 2005; preemptory amendment at 29 Ill. Reg. 14098, effective September 2, 2005; amended at 29 Ill. Reg. 14166, effective September 9, 2005; amended at 29 Ill. Reg. 19551, effective November 21, 2005; emergency amendment at 29 Ill. Reg. 20554, effective December 2, 2005, for a maximum of 150 days; preemptory amendment at 29 Ill. Reg. 20693, effective December 12, 2005; preemptory amendment at 30 Ill. Reg. 623, effective December 28, 2005; preemptory amendment at 30 Ill. Reg. 1382, effective January 13, 2006; amended at 30 Ill. Reg. 2289, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 4157, effective February 22, 2006; preemptory amendment at 30 Ill. Reg. 5687, effective March 7, 2006; preemptory amendment at 30 Ill. Reg. 6409, effective March 30, 2006; amended at 30 Ill. Reg. 7857, effective April 17, 2006; amended at 30 Ill. Reg. 9438, effective May 15, 2006; preemptory amendment at 30 Ill. Reg. 10153, effective May 18, 2006; preemptory amendment at 30 Ill. Reg. 10508, effective June 1, 2006; amended at 30 Ill. Reg. 11336, effective July 1, 2006; emergency amendment at 30 Ill. Reg. 12340, effective July 1, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 12418, effective July 1, 2006; amended at 30 Ill. Reg. 12761, effective July 17, 2006; preemptory amendment at 30 Ill. Reg. 13547, effective August 1, 2006; preemptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006; preemptory amendment at 30 Ill. Reg. 16439, effective September 27, 2006; emergency amendment at 30 Ill. Reg. 16626, effective October 3, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 17603, effective October 20, 2006; amended at 30 Ill. Reg. 18610, effective November 20, 2006.

SUBPART A: NARRATIVE

Section 310.100 Other Pay Provisions

- a) Transfer – Upon the assignment of an employee to a vacant position in a class with the same pay grade as the class for the position being vacated, the employee's base salary will not be changed. Upon separation from a position in a given class and subsequent appointment to a position in the same pay grade, no increase in salary will be given.
- b) Entrance Base Salary –
 - 1) Qualifications Only Meet Minimum Requirements – When a candidate only meets the minimum requirements of the class specification upon entry to State service, an employee's entrance base salary is the in-hiring rate or the minimum base salary of the pay grade.
 - 2) Qualifications Above Minimum Requirements – If a candidate possesses

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directly-related education and experience in excess of the minimum requirements of the class specification, the employing agency may offer the candidate an entrance base salary that is not more than 10% above the candidate's current base salary. An entrance base salary offer more than 10% above the candidate's current base salary requires documentation in the candidate's CMS employment application (CMS-100) to support the higher entrance base salary offer and prior approval from the Director of Central Management Services. The approval is based on the candidate's documented directly-related education and experience exceeding the minimum requirements in the class specification, prior base salary history, staffing needs and requirements of the employing agency, and labor market influences on the recruitment for the position classification or position.

- 3) Area Differential – For positions where additional compensation is required because of dissimilar economic or other conditions in the geographical area in which the positions are established, a higher entrance step may be authorized by the Director of Central Management Services. Present employees receiving less than the new rate shall be advanced to the new rate.
- c) Geographical Transfer – Upon geographical transfer from or to an area for which additional compensation has been authorized, an employee will receive an adjustment to the appropriate salary level for the new geographical area of assignment effective the first day of the month following date of approval.
- d) Differential and Overtime Pay – An eligible employee may have an amount added to his/her base salary for a given pay period for work performed in excess of the normal requirements for the position and work schedule, as follows:
 - 1) Shift Differential Pay – An employee may be paid an amount in addition to his/her base salary for work performed on a regularly scheduled second or third shift. The additional compensation will be at a rate and in a manner approved by the Department of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
 - 2) Overtime Pay –

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- A) Eligibility – The Director of Central Management Services will maintain a list of titles and their overtime eligibility as determined by labor contracts, Federal Fair Labor Standards Act, or State law or regulations. Overtime shall be paid in accordance with the labor contracts, Federal Fair Labor Standards Act, and State law or regulations.
- B) Compensatory Time – Employees who are eligible for compensatory time may request such time, which may be granted by the agency at its discretion, considering, among other things, its operating needs. Compensatory time shall be taken within the fiscal year it was earned at a time convenient to the employee and consistent with the operating needs of the agency. Compensatory time shall be accrued at the rate in which it is earned (straight time or time and a half), but shall not exceed 120 hours in any fiscal year. Compensatory time approved for non-union employees will be earned after 40 actual work hours in a workweek. Compensatory time not used by the end of the fiscal year in which it was earned shall be liquidated and paid in cash at the rate it was earned. Time spent in travel outside the normal work schedule shall not be accrued as compensatory time except as provided by labor contracts and the Federal Fair Labor Standards Act. At no time are overtime hours or compensatory time to be transferred from one agency to another agency.
- 3) Incentive Pay – An employee may be paid an amount in addition to his/her base salary for work performed in excess of the normal work standard as determined by agency management. The additional compensation shall be at a wage rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
- 4) Temporary Assignment Pay –
- A) When Assigned to a Higher-Level Position Classification – [A bargaining unit An](#)-employee may be temporarily assigned to [a](#)

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bargaining unit position in a position classification having a higher pay grade and shall be eligible for temporary assignment pay. To be eligible for temporary assignment pay, the employee must be directed to perform the duties that distinguish the higher-level position classification and be held accountable for the responsibility of the higher classification. Employees shall not receive temporary assignment pay for paid days off except if the employee is given the assignment for 30 continuous days or more, the days off fall within the period of time and the employee works 75% of the time of the temporary assignment. Temporary assignment pay shall be calculated as if the employee received a promotion into the higher pay grade. In no event is the temporary assignment pay to be lower than the minimum rate of the higher pay grade or greater than the maximum rate of the higher pay grade.

- B) When Required to Use Second Language Ability – Employees who are bilingual or have the ability to use sign language, Braille, or another second language (e.g., Spanish) and whose job descriptions do not require that they do so shall be paid temporary assignment pay when required to perform duties requiring the ability. The temporary assignment pay received is prorated based on 5% or \$100 per month, whichever is greater, in addition to the employee's base rate.

- e) Interim Assignment Pay – This subsection of the Pay Plan explains interim assignment pay as applied to certified non-bargaining unit employees in a salary grade position assigned to perform on a full-time interim basis and be accountable for the higher-level duties and responsibilities of the non-bargaining unit (salary grade or merit compensation (including broad-band and medical administrator)) position. On the effective date of the certified non-bargaining unit employee's interim assignment (80 Ill. Adm. Code 302.150(j)), the employee shall receive an adjustment as if the employee received a promotion into the higher pay grade or range.

- 1) When Assigned to the Salary Grade Position – When assigned to the salary grade position, the employee's base salary shall be advanced to the lowest step in the higher pay grade that represents at least a full step increase in the lower pay grade. When the employee's current rate is Step 8 in the lower pay grade, the employee shall be paid at the lowest step rate

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in the higher pay grade that results in an increase equal to at least 3%. To compute this, add 3% to the employee's current rate at Step 8 (then include longevity if the employee is receiving an increased rate based on longevity). Then place the employee on the lowest step in the higher pay grade that is at least equivalent to that amount. Upon interim assignment, the employee's creditable service date shall change to the effective date of the interim assignment.

- 2) When Assigned to the Merit Compensation Position – When assigned to the merit compensation position, the employee's base salary shall receive an adjustment, which is an amount equivalent to between 8% and 15% of the employee's current base salary. In no event is the resulting salary to be lower than the minimum rate or greater than the maximum rate of the salary range to which the employee is being assigned. Upon interim assignment, the employee's creditable service date shall change to the effective date of the interim assignment.

~~Extra Duty Pay – An employee may be paid an amount in addition to his/her base salary for service in addition to the regular work schedule on a special work assignment. Additional compensation will be at a rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.~~

fe) Equivalent Earned Time –

- 1) Eligibility – Employees who are non-union, exempt under the Federal Fair Labor Standards Act, and in positions not eligible for overtime compensation may receive equivalent earned time for hours worked in excess of 40 actual work hours in a work week.
- 2) Accrual –
- A) Employees who are eligible for equivalent earned time shall request that time before working in excess of 40 actual work hours in a work week. Requests for equivalent earned time may be granted by the agency at its discretion, considering its operating needs. Equivalent earned time shall be accrued at straight time only to a maximum of 120 hours in any fiscal year.

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- B) Equivalent earned time will accrue in no less than one-half hour increments. Time spent in travel outside the normal work schedule shall not be counted toward accrual of equivalent earned time.
- 3) Compensation – Any approved equivalent earned time shall be taken at a time convenient to the employee and consistent with the operating needs of the agency. This time may not be carried over from one fiscal year to another fiscal year, except that equivalent earned time accrued during June of one fiscal year may be carried over for use prior to August of the immediately following fiscal year. At no time is equivalent earned time to be converted into cash payment or transferred from one agency to another agency.
- gf) Part-Time Work – Part-time employees whose base salary is other than an hourly or daily basis shall be paid on a daily basis computed by dividing the annual rate of salary by the total number of work days in the year.
- hg) Out-of-State Assignment – Employees who are assigned to work out-of-state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
- ih) Lump Sum Payment – Lump sum payment shall be provided for accrued vacation, sick leave and unused compensatory overtime at the current base rate to those employees separated from employment under the Personnel Code. Leaves of absence and temporary layoff (per 80 Ill. Adm. Code 302.510) are not separations and therefore lump sum cannot be given in these transactions. Method of computation is explained in Section 310.70(a).

AGENCY NOTE – The method to be used in computing the lump sum payment for accrued vacation, sick leave and unused compensatory overtime payment for an incumbent entitled to shift differential during his/her regular work hours will be to use his/her current base salary plus the shift differential pay. Sick leave earned prior to January 1, 1984 and after December 31, 1997 is not compensable. Sick leave earned and not used between January 1, 1984 and December 31, 1997 will be compensable at the current base daily rate times one-half of the total number of compensable sick days.

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- j) Salary Treatment Upon Return From Leave – An employee returning from Administrative Leave (80 Ill. Adm. Code 302.795), Military Leave (80 Ill. Adm. Code 302.220 and 303.170), Peace Corps Leave (80 Ill. Adm. Code 302.230), Service-Connected Disability Leave (80 Ill. Adm. Code 303.135), Educational Leave (80 Ill. Adm. Code 302.215), Disaster Service Leave with Pay (80 Ill. Adm. Code 303.175), Family Responsibility Leave (80 Ill. Adm. Code 303.148), Leave to accept a temporary, emergency, provisional, exempt (80 Ill. Adm. Code 303.155) or trainee position, ~~or~~ Leave to serve in domestic peace or job corps (80 Ill. Adm. Code 302.230) or leave to serve in an interim assignment will be placed on the step that reflects satisfactory performance increases to which he/she would have been entitled during his/her period of leave. Creditable service date will be maintained. An employee returning to his/her former pay grade from any other leave of over 14 days will be placed at the step on which he/she was situated prior to his/her leave, and his/her creditable service date will be extended by the duration of the leave.
- k) Salary Treatment Upon Reemployment –
- 1) Upon the reemployment of an employee in a class with the same pay grade as the class for the position held before layoff, the employee will be placed at the same salary step as held at the time of the layoff, and his/her creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
 - 2) Upon the reemployment of an employee in a class at a lower salary range than the range of the class for the position held before layoff, the employee will be placed at the step in the lower pay grade that provides the base salary nearest in amount to, but less than, the current value of the step held at the time of layoff, and his/her creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
- l) Reinstatement – The salary upon reinstatement should not provide more than a 10% increase over the candidate's current base salary or exceed the current value of the salary step held in the position where previously certified without prior approval by the Director of Central Management Services. In no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the pay grade.

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m) Extended Service Payment –

- 1) The Step 8 rate shall be increased by \$25 per month for those employees who have attained 10 years of service and have three years of creditable service on Step 8 in the same pay grade. This increase is suspended for non-union positions and employees.
- 2) The Step 8 rate shall be increased by \$50 per month for those employees who have attained 15 years of service and have three years of creditable service on Step 8 in the same pay grade. This increase is suspended for non-union positions and employees.

n) Bi-lingual Pay – Individual positions whose job descriptions require the use of sign language, Braille, or another second language (e.g., Spanish) shall receive 5% or \$100 per month, whichever is greater, in addition to the employee's base rate.

(Source: Amended at 30 Ill. Reg. 18610, effective November 20, 2006)

SUBPART C: MERIT COMPENSATION SYSTEM

Section 310.490 Other Pay Provisions

- a) Transfer – Upon assignment of an employee to a vacant position in a class with the same salary range as the class for the position being vacated, the employee's base salary will not be changed. Upon separation and subsequent appointment to a position in the same salary range, no increase in salary will be given.
- b) Entrance Base Salary –
 - 1) When a candidate only meets the minimum requirements of the class specification upon entry to State service, an employee's entrance base salary is the in-hiring rate or the minimum base salary of the salary range.
 - 2) Qualifications Above Minimum Requirements – If a candidate possesses directly-related education and experience in excess of the minimum requirements of the class specification, the employing agency may offer the candidate an entrance base salary that is not more than 10% above the candidate's current base salary. An entrance base salary offer more than 10% above the candidate's current base salary requires documentation in

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the candidate's CMS employment application (CMS-100) to support the higher entrance base salary offer and prior approval from the Director of Central Management Services. The approval is based on the candidate's documented directly-related education and experience exceeding the minimum requirements in the class specification, prior base salary history, staffing needs and requirements of the employing agency, and labor market influences on the recruitment for the position classification or position.

- 3) Area Differential – For positions where additional compensation is required because of dissimilar economic or other conditions in the geographical area in which the positions are established, a higher entrance salary may be authorized by the Director of Central Management Services. Present employees receiving less than the new rate of pay shall be advanced to the new rate.
- c) Geographical Transfer – Upon geographical transfer from or to an area for which additional compensation has been authorized, an employee will receive an adjustment to the appropriate salary level for the new geographical area of assignment, effective the first day of the month following the date of assignment.
 - d) Differential and Overtime Pay – An eligible employee may have an amount added to the base salary for a given pay period for work performed in excess of the normal requirements for the position and work schedule, as follows:
 - 1) Shift Differential Pay – An employee may be paid an amount in addition to the base salary for work performed on a regularly scheduled second or third shift. The additional compensation will be at a rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
 - 2) Overtime Pay –
 - A) Eligibility – The Director of Central Management Services shall maintain a listing of classes of positions subject to the provisions of the Merit Compensation System that are eligible for overtime compensation. Classes in salary ranges MC 6 and below are

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eligible for straight-time overtime unless exceptions are determined by the Director of Central Management Services or federal guidelines. Employees in these classes of positions who are assigned and perform work in excess of the normal work schedule as established by the agency shall be compensated at a straight-time rate on either a cash or compensatory time-off basis for all hours worked in excess of a normal work week. Overtime in less than one-half hour increments per day shall not be accrued. Classes in MC 7 and above are not eligible for overtime unless required by federal regulation or approved by the Director of Central Management Services. Exceptions must be requested by the employing agency and will be determined on the basis of the special nature of the situation, a substantial need to provide overtime compensation and a significant number of hours worked beyond the normal work schedule, and will be granted only for a specified time period for which the special situation is expected to exist.

- B) Compensatory Time – Employees who are eligible for compensatory time may request such time, which may be granted by the agency at its discretion, considering, among other things, its operating needs. Compensatory time shall be taken within the fiscal year it was earned at a time convenient to the employee and consistent with the operating needs of the agency. Compensatory time shall be accrued at the rate in which it is earned (straight time or time and a half), but shall not exceed 120 hours in any fiscal year. Compensatory time approved for non-union employees will be earned after 40 actual work hours in a workweek. Compensatory time not used by the end of the fiscal year in which it was earned shall be liquidated and paid in cash at the rate it was earned. Time spent in travel outside the normal work schedule shall not be accrued as compensatory time except as provided by labor contracts and the Federal Fair Labor Standards Act. At no time are overtime hours or compensatory time to be transferred from one agency to another agency.
- e) Equivalent Earned Time –
 - 1) Eligibility – Employees who are non-union, exempt under the Federal Fair Labor Standards Act, and in positions not eligible for overtime

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compensation may receive equivalent earned time for hours worked in excess of 40 actual work hours in a work week.

- 2) Accrual –
 - A) Employees who are eligible for equivalent earned time shall request that time before working in excess of 40 actual work hours in a work week. Requests for equivalent earned time may be granted by the agency at its discretion, considering its operating needs. Equivalent earned time shall be accrued at straight time only to a maximum of 120 hours in any fiscal year.
 - B) Equivalent earned time will accrue in no less than one-half hour increments. Time spent in travel outside the normal work schedule shall not be counted toward accrual of equivalent earned time.
- 3) Compensation – Any approved equivalent earned time shall be taken at a time convenient to the employee and consistent with the operating needs of the agency. This time may not be carried over from one fiscal year to another fiscal year, except that equivalent earned time accrued during June of one fiscal year may be carried over for use prior to August of the immediately following fiscal year. At no time is equivalent earned time to be converted into cash payment or transferred from one agency to another agency.
 - f) Part-Time Work – Part-time employees whose base salary is other than an hourly or daily basis shall be paid on a daily rate basis computed by dividing the annual rate of salary by the total number of work days in the year.
 - g) Out-of-State Assignment – Employees who are assigned to work out-of-state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstance.
 - h) Lump Sum Payment – Lump sum payment shall be provided for accrued vacation, sick leave and unused compensatory overtime at the current base rate to those employees separated from employment under the Personnel Code. Leaves

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of absence and temporary layoff (per 80 Ill. Adm. Code 302.510) are not separations and therefore lump sum payments cannot be given in these transactions. Methods of computation are explained in Section 310.520(a).

AGENCY NOTE: The method to be used in computing lump sum payment for accrued vacation, sick leave and unused compensatory overtime for an incumbent entitled to shift differential during the regular work hours will be to use the current base salary plus the shift differential pay. Sick leave earned prior to January 1, 1984 and after December 31, 1997 is not compensable. Sick leave earned and not used between January 1, 1984 and December 31, 1997 will be compensable at the current base daily rate times one-half of the total number of compensable sick days.

- i) Salary Treatment upon Return from Leave – An employee returning from Administrative Leave (80 Ill. Adm. Code 302.795), Military Leave (80 Ill. Adm. Code 302.220 and 303.170), Peace Corps Leave (80 Ill. Adm. Code 302.230), Service-Connected Disability Leave (80 Ill. Adm. Code 303.135), Educational Leave (80 Ill. Adm. Code 302.215), Disaster Service Leave with Pay (80 Ill. Adm. Code 303.175), Family Responsibility Leave (80 Ill. Adm. Code 303.148), Leave to accept a temporary, emergency, provisional, exempt (80 Ill. Adm. Code 303.155) or trainee position, leave to serve in domestic peace or job corps (80 Ill. Adm. Code 302.230) or leave to serve in an interim assignment will have his/her salary established as determined appropriate by the employing agency and approved by the Director of Central Management Services. However, in no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range. Creditable service date will be maintained. An employee returning to his/her former salary range from any other leave of over 14 days will be placed at the salary which the employee received prior to the leave and the creditable service date will be extended by the duration of the leave.
- j) Employees in classes that are made subject to the Merit Compensation System after July 1, 1979 will retain their current salary, except that in no event is the resultant salary to be lower than the minimum rate or higher than the maximum rate of the new salary range.
- k) Temporary Assignment Pay When Required to Use Second Language Ability – Employees who are bilingual or have the ability to use sign language, Braille, or another second language (e.g., Spanish) and whose job descriptions do not require that they do so shall be paid temporary assignment pay when required to perform duties requiring the ability. The temporary assignment pay received is prorated

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based on 5% or \$100 per month, whichever is greater, in addition to the employee's base rate. ~~Extra Duty Pay—An employee may be paid an amount in addition to the base salary for services in addition to the regular work schedule on a special assignment. Additional compensation will be at a rate and manner as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.~~

- l) Salary Treatment Upon Reemployment –
 - 1) Upon the reemployment of an employee in a class with the same salary range as the class for the position held before layoff, the employee will be placed at the same salary as held at the time of the layoff, and his creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
 - 2) Upon the reemployment of an employee in a class at a lower salary range than the range of the class for the position held before layoff, the employee will be placed at the same salary as held at the time of layoff, except that if this exceeds the maximum of the new range, the employee will be placed at that maximum salary. The creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
- m) Reinstatement – The salary upon reinstatement of an employee will be as determined by the employing agency and approved by the Director of Central Management Services. This salary should not provide more than a 10% increase over the candidate's current salary, or exceed the salary rate held in the position where previously certified. In no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range.
- n) Bilingual Pay – Individual positions whose job descriptions require the use of sign language, Braille, or another second language (e.g., Spanish) shall receive 5% or \$100 per month, whichever is greater, in addition to the employee's base rate.
- o) Clothing or Equipment Allowance – An employee may be paid an amount in addition to his/her base salary to compensate for clothing or equipment that is required in the performance of assigned duties. The amount will be determined

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by the Director of the employing agency, and will require approval of the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstance.

- p) Interim Assignment Pay – This subsection of the Pay Plan explains interim assignment pay as applied to certified non-bargaining unit employees in a merit compensation (including broad-band and medical administrator) position assigned to perform on a full-time interim basis and be accountable for the higher-level duties and responsibilities of the non-bargaining unit (salary grade or merit compensation (including broad-band and medical administrator)) position. On the effective date of the employee's interim assignment (80 Ill. Adm. Code 302.150(j)), the employee shall receive an adjustment as if the employee received a promotion into the higher pay grade or range.
- 1) When Assigned to the Merit Compensation Position – When assigned to the merit compensation position, the adjustment is an amount equivalent to between 8% and 15% of the employee's current base salary. In no event is the resulting salary to be lower than the minimum rate or greater than the maximum rate of the salary range to which the employee is being assigned. Upon interim assignment, the employee's creditable service date shall change to the effective date of the interim assignment.
 - 2) When Assigned to the Salary Grade Position – When assigned to the salary grade position, the adjustment is determined by taking the difference between the salary on the step equivalent to or greater than the employee's current base salary and the salary one step above that step and adding that difference to the employee's current base salary. Then place the employee on the lowest step in the higher pay grade that is at least equivalent to that amount. In no event is the resulting salary to be lower than the minimum rate or greater than the maximum rate of the pay grade to which the employee is being assigned. Upon interim assignment, the employee's creditable service date shall change to the effective date of the interim assignment.

(Source: Amended at 30 Ill. Reg. 18610, effective November 20, 2006)

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- 1) Heading of the Part: Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 1
- 3) Section Number: 1.4545 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by the Illinois Procurement Code [30 ILCS 500]
- 5) Effective Date of Amendment: November 17, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal was Published in the Illinois Register: 30 Ill. Reg. 4203; March 17, 2006
- 10) Has JCAR issued a Statement of Objection to the Amendment? No
- 11) Differences between proposal and final version: Non-substantive changes as recommended by JCAR were made. In addition, in Subsection (c)(2)(C) language was added to clarify the example of a guideline used for consideration of a waiver. Under Subsection (a), Subsection (a)(1) and (a)(2) were created to add the listing of the categories of supplies and services that state agencies shall set-aside for small businesses, unless the CPO establishes a master contract to meet agency needs or unless the CPO grants a waiver.
- 12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of Amendment: This rulemaking makes changes to the Small Business Set-Aside Section of the rules to reflect changes in law and in CMS policy, including CPO Bulleting #35. The substantive changes reflect growing use of the internet (making list of certified small businesses available to agencies in web form); memorialization of lists of set-aside categories and good faith waiver provision; and reference to allowable annual sales for a small business.
- 16) Information and questions regarding this adopted amendment shall be directed to:
- Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield IL 62706
- 217/785-1793
- 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]? The Procurement Policy Review Board has been involved with this rulemaking since 1st Notice publication.

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

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT

SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 1

STANDARD PROCUREMENT

SUBPART A: GENERAL

Section

- 1.1 Title
- 1.5 Policy
- 1.8 Purpose and Implementation of This Part
- 1.10 Application
- 1.15 Definition of Terms Used in This Part
- 1.25 Property Rights
- 1.30 Constitutional Officers, and Legislative and Judicial Branches

SUBPART B: PROCUREMENT RULES

Section

- 1.525 Rules

SUBPART C: PROCUREMENT AUTHORITY

Section

- 1.1005 Exercise of Procurement Authority
- 1.1010 Appointment of State Purchasing Officer
- 1.1030 Associate Procurement Officers
- 1.1040 Central Procurement Authority of the CPO
- 1.1050 Procurement Authority of the SPO; Limitations
- 1.1060 Delegation
- 1.1070 Toll Highway Authority
- 1.1075 Department of Natural Resources
- 1.1080 Illinois Mathematics and Science Academy

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section

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- 1.1510 Illinois Procurement Bulletin
- 1.1525 Bulletin Content
- 1.1550 Official State Newspaper
- 1.1560 Supplemental Notice
- 1.1570 Error in Notice
- 1.1580 Direct Solicitation
- 1.1590 Retention of Bulletin Information

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section

- 1.2005 General Provisions
- 1.2010 Competitive Sealed Bidding
- 1.2012 Multi-Step Sealed Bidding
- 1.2015 Competitive Sealed Proposals
- 1.2020 Small Purchases
- 1.2025 Sole Economically Feasible Source Procurement
- 1.2030 Emergency Procurements
- 1.2035 Competitive Selection Procedures for Professional and Artistic Services
- 1.2036 Other Methods of Source Selection
- 1.2037 Tie Bids and Proposals
- 1.2038 Mistakes
- 1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section

- 1.2043 Suppliers
- 1.2044 Vendor List/Required Use
- 1.2045 Prequalification
- 1.2046 Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section

- 1.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section

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1.2050 Specifications and Samples

SUBPART I: CONTRACT TYPE

Section
1.2055 Types of Contracts

SUBPART J: DURATION OF CONTRACTS

Section
1.2060 Duration of Contracts – General

SUBPART K: CONTRACT MATTERS

Section
1.2560 Prevailing Wage
1.2570 Equal Employment Opportunity; Affirmative Action

SUBPART L: CONTRACT PRICING

Section
1.2800 All Costs Included

SUBPART M: CONSTRUCTION AND
CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section
1.3005 Construction and Construction Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section
1.4005 Real Property Leases and Capital Improvement Leases

SUBPART O: PREFERENCES

Section
1.4505 Procurement Preferences
1.4510 Resident Bidder Preference
1.4530 Correctional Industries

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- 1.4535 Sheltered Workshops for the Disabled
- 1.4540 Gas Mileage
- 1.4545 Small Business
- 1.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

SUBPART P: ETHICS

- Section
- 1.5013 Conflicts of Interest
- 1.5015 Negotiations for Future Employment
- 1.5020 Exemptions
- 1.5030 Revolving Door
- 1.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

SUBPART Q: CONCESSIONS

- Section
- 1.5310 Concessions

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

- Section
- 1.5510 Complaints Against Vendors
- 1.5520 Suspension
- 1.5530 Resolution of Contract Controversies
- 1.5540 Violation of Law or Rule
- 1.5550 Protests

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

- Section
- 1.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

- Section
- 1.6500 General
- 1.6510 No Agency Relationship
- 1.6520 Obligations of Participating Governmental Units

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- 1.6530 Centralized Contracts – Estimated Quantities
1.6535 Centralized Contracts – Definite Quantities

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

- Section
1.7000 Severability
1.7010 Government Furnished Property
1.7015 Inspections
1.7020 Records and Audits
1.7025 Written Determinations
1.7030 No Waiver of Sovereign Immunity

AUTHORITY: The Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 7 Ill. Reg. 100, effective December 17, 1982; amended at 7 Ill. Reg. 13481, effective October 4, 1983; amended at 7 Ill. Reg. 13844, effective October 12, 1983; codified at 8 Ill. Reg. 14941; Sections 1.2210, 1.2220, 1.2230, 1.2240 recodified to Section 1.2210 at 9 Ill. Reg. 6118; amended at 10 Ill. Reg. 923, effective January 2, 1986; amended at 10 Ill. Reg. 18707, effective October 22, 1986; amended at 11 Ill. Reg. 7225, effective April 6, 1987; amended at 11 Ill. Reg. 7595, effective April 14, 1987; amended at 13 Ill. Reg. 17804, effective November 7, 1989; emergency amendment at 16 Ill. Reg. 13118, effective August 7, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 600, effective January 5, 1993; amended at 17 Ill. Reg. 14576, effective August 27, 1993; amended at 20 Ill. Reg. 9015, effective July 1, 1996; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12632, effective July 1, 1998, for a maximum of 150 days, and new Part adopted by emergency rulemaking at 22 Ill. Reg. 12726, effective July 1, 1998, for a maximum of 150 days; old Part repealed and new Part adopted at 22 Ill. Reg. 20875, effective November 25, 1998; emergency amendment at 23 Ill. Reg. 2812, effective February 16, 1999, for a maximum of 150 days; emergency expired on July 15, 1999; emergency amendment at 23 Ill. Reg. 5869, effective April 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7075, effective June 7, 1999; amended at 24 Ill. Reg. 1900, effective January 21, 2000; amended at 26 Ill. Reg. 13189, effective August 23, 2002; emergency amendment at 29 Ill. Reg. 20540, effective December 2, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 5673, effective March 7, 2006, for the balance of the 150 days; amended at 30 Ill. Reg. 138, effective December 22, 2005; amended at 30 Ill. Reg. 13378, effective July 25, 2006; amended at 30 Ill. Reg. 18635, effective November 17, 2006.

SUBPART O: PREFERENCES

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Section 1.4545 Small Business

a) Set-Aside

1) The CPO may determine categories of supplies or service procurements that will be set aside for small business located in Illinois. The set-aside designation may be made for current and future procurements of a specific supply, service or construction, or for a class of like supplies, services or construction. A set-aside designation may last indefinitely or for a stated period of time.

2) State agencies shall set aside for small businesses the following categories of supplies and services unless the CPO establishes a master contract to meet agency needs or unless the CPO grants a waiver:

Addressing and Mailing

Air Conditioner Repair

Air Filters and Air Filter Media

Asphalt Paving

Automotive Maintenance, Batteries

Automotive Maintenance, Belts and Hoses

Automotive Maintenance, Exhaust

Building and Grounds Maintenance

Calendars (excluding Calendar Pads)

Carpentry

Carpet Cleaning

Carpet/Linoleum/Tile Laying

Computer Supplies, Data Tape Cartridges

Concrete Finishing

Data Entry

Drapery Cleaning

Dry Wall Services

Electrical Services

Electricians

Excavating

Exterior Building Cleaning

Fencing

Fertilizer Application

Flags

Floor Maintenance Machines

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Floor Surfacing
Floor Wax Components
Furniture Cleaning
Gloves, Disposable, Medical Type
Heating Repair
Housekeeping
Imprinted Notions
Janitorial
Jugs and Caps
Labeling Services
Landscaping
Laser Printer Cartridges and Supplies
Lawn Care, Misc.
Mailing Services
Masonry Services
Painting
Parking Lot Maintenance
Pavement Maintenance
Plastering
Plumbing, Misc.
Plumbing Services
Plumbing Supplies and Equipment, Misc.
Pneumatic Tools
Power Tools
Roofing
Safety Supplies
Snow Plowing
Trucking and Hauling Services
Typing Services
Upholstery Cleaning
Ventilating
Ventilation Services
Video and Audio Tapes
Wallpaper Hanging
Water Heaters
Window Washing
Wiping Rags
Word Processing Services
Woodworking

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- b) **Small Business List**
The CPO will maintain a list of responsible vendors that meet the criteria of small business and the supplies and services that each provides. Each purchasing agency will have web-based access to the list~~The CPO will periodically inform each purchasing agency of those vendors on the list and the supplies and services that each provides.~~ A business that fits the definition of small on the day of award~~bid~~ or proposal opening will be considered small for the duration of the contract.
- c) **Required Use**
- 1) If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.
 - 2) A Procurement Officer may request a waiver of the set-aside requirement from the Department of Central Management Services. To obtain a waiver, the Procurement Officer must demonstrate a measurable substantial impact, taking into account factors such as cost, supply base, quality, statutory preferences, regional or geographic requirements, acquisition cycle times, and terms and conditions. Following are examples of guidelines that may be considered:
 - A) the product or service is provided by a large business sole source vendor;
 - B) there is a need for a brand-name product and there are no small businesses that provide the product;
 - C) there is an opportunity to establish a no-bid contract with a State use vendor (see Sheltered Workshop for the Severely Handicapped [30 ILCS 500/45-35]);
 - D) the supply base for the product or service includes several larger diversified vendors that can be counted towards the goal authorized in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575];

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- E) [the product or service is available from Illinois Correctional Industries;](#)
 - F) [the prices offered by qualified small businesses are substantially greater than the prices offered by large businesses; and](#)
 - G) [the small business supply base does not meet regional or geographic requirements for the product or service.](#)
- d) **Withdrawal of Set-Aside**
If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.
- e) **Criteria for Small Business**
Unless the CPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is:
- 1) An Illinois business, independently owned and operated.
 - 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
 - 3) With annual sales, including sales of affiliates, for most recently ended fiscal year no greater than:
 - A) \$10,000,000 for wholesale business;
 - B) \$10,000,000 for construction business; or

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- |
- C) \$6,000,000 for retail/[service](#) business.
- 4) With no more than 250 employees, including those of affiliates, if a manufacturing business.
 - A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.
 - B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.
 - 5) If the business is any combination of retailer, wholesaler or construction business, then the annual sales for each component may not exceed the amounts shown in subsection (e)(3). For example, a business that is both a retailer and wholesaler may not have total sales exceeding \$16,000,000 and the retail component may not exceed \$6,000,000 and the wholesale component may not exceed \$10,000,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in subsection (e)(4).
 - 6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.
 - f) Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses shall submit information verifying that the vendor

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qualifies as a small business under the Code and this Part. The CPO may establish procedures for verifying such information.

(Source: Amended at 30 Ill. Reg. 18635, effective November 17, 2006)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Adopted Action:
140.490 Amendment
140.492 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: November 27, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 14, 2006; 30 Ill. Reg. 12066
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences Between Proposal and Final Version: The following changes were made:

In Section 140.490(e)(5), changed "that" to "in which".
In Section 140.492(h), added a comma after the first "rate".
In Section 140.492(h)(1), deleted "which" and added "that".
- 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 rulemaking replace any emergency amendments currently in effect? Yes.
(effective July 1, 2006; 30 Ill. Reg. 12376)
- 14) Are there any other amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.990	New Section	30 Ill. Reg. 13633; August 18, 2006

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140.991	New Section	30 Ill. Reg. 13633; August 18, 2006
140.992	New Section	30 Ill. Reg. 13633; August 18, 2006
140.993	New Section	30 Ill. Reg. 13633; August 18, 2006
140.13	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.15	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.18	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.20	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.24	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.25	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.28	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.30	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.33	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.1001	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.1002	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.1003	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.1004	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.1005	Amendment	30 Ill. Reg. 14007; August 25, 2006
140.469	Amendment	30 Ill. Reg. 17719; November 13, 2006
140.526	Amendment	30 Ill. Reg. 17719; November 13, 2006
140.530	Amendment	30 Ill. Reg. 17719; November 13, 2006
140.860	Repeal	30 Ill. Reg. 17719; November 13, 2006

15) Summary and Purpose of Amendments: These amendments allow payment for an employee attendant for taxicab and service car providers and change the mileage reimbursement policy for service car and medicar to allow payment from the first mile. The funding for this change was included in the Fiscal Year 2007 budget, and the estimated cost is \$4 million annually.

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

Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002
217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

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

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

SUBPART C: PROVIDER ASSESSMENTS

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

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

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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Section

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

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

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140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.494	Record Requirements for Medical Transportation Services
140.495	Psychological Services
140.496	Payment for Psychological Services
140.497	Hearing Aids
140.498	Fingerprint-Based Criminal Background Checks

SUBPART E: GROUP CARE

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140.500	Long Term Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Informal Hearing Process for Denial of Payment for New ICF/MR
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered By Department Payment
140.512	Utilization Control
140.513	Notification of Change in Resident Status
140.514	Certifications and Recertifications of Care (Repealed)
140.515	Management of Recipient Funds – Personal Allowance Funds
140.516	Recipient Management of Funds
140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds
140.520	Management of Recipient Funds – Local Office Responsibility
140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Quality Incentive Program (QUIP) Payment Levels
140.526	Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)
140.527	Quality Incentive Survey (Repealed)
140.528	Payment of Quality Incentive (Repealed)

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140.529	Reviews (Repealed)
140.530	Basis of Payment for Long Term Care Services
140.531	General Service Costs
140.532	Health Care Costs
140.533	General Administration Costs
140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
140.538	Special Costs
140.539	Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
140.540	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541	Salaries Paid to Owners or Related Parties
140.542	Cost Reports – Filing Requirements
140.543	Time Standards for Filing Cost Reports
140.544	Access to Cost Reports (Repealed)
140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs Updates
140.552	Nursing and Program Costs
140.553	General Administrative Costs Updates
140.554	Component Inflation Index (Repealed)
140.555	Minimum Wage
140.560	Components of the Base Rate Determination
140.561	Support Costs Components
140.562	Nursing Costs
140.563	Capital Costs
140.565	Kosher Kitchen Reimbursement
140.566	Out-of-State Placement
140.567	Level II Incentive Payments (Repealed)
140.568	Duration of Incentive Payments (Repealed)
140.569	Clients With Exceptional Care Needs
140.570	Capital Rate Component Determination
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- 140.575 Newly Constructed Facilities (Repealed)
- 140.576 Renovations (Repealed)
- 140.577 Capital Costs for Rented Facilities (Renumbered)
- 140.578 Property Taxes
- 140.579 Specialized Living Centers
- 140.580 Mandated Capital Improvements (Repealed)
- 140.581 Qualifying as Mandated Capital Improvement (Repealed)
- 140.582 Cost Adjustments
- 140.583 Campus Facilities
- 140.584 Illinois Municipal Retirement Fund (IMRF)
- 140.590 Audit and Record Requirements
- 140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
- 140.643 In-Home Care Program
- 140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21 (Repealed)
- 140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
- 140.647 Description of Developmental Training (DT) Services
- 140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
- 140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs
- 140.650 Certification of Developmental Training (DT) Programs
- 140.651 Decertification of Day Programs
- 140.652 Terms of Assurances and Contracts
- 140.680 Effective Date Of Payment Rate
- 140.700 Discharge of Long Term Care Residents
- 140.830 Appeals of Rate Determinations
- 140.835 Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND
LOCAL GOVERNMENTAL ENTITIES

Section

- 140.850 Reimbursement of Administrative Expenditures
- 140.855 Administrative Claim Review and Reconsideration Procedure
- 140.860 County Owned or Operated Nursing Facilities
- 140.865 Sponsor Qualifications (Repealed)
- 140.870 Sponsor Responsibilities (Repealed)

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140.875	Department Responsibilities (Repealed)
140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
140.890	Payment Methodology (Repealed)
140.895	Contract Monitoring (Repealed)
140.896	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
140.910	Referrals (Recodified)
140.911	Basic Rehabilitation Aide Training Program (Recodified)
140.912	Interim Nursing Rates (Recodified)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section	
140.920	General Description
140.922	Covered Services
140.924	Maternal and Child Health Provider Participation Requirements
140.926	Client Eligibility (Repealed)
140.928	Client Enrollment and Program Components (Repealed)
140.930	Reimbursement
140.932	Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section	
140.940	Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
140.942	Definition of Terms (Recodified)

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140.944	Notification of Negotiations (Recodified)
140.946	Hospital Participation in ICARE Program Negotiations (Recodified)
140.948	Negotiation Procedures (Recodified)
140.950	Factors Considered in Awarding ICARE Contracts (Recodified)
140.952	Closing an ICARE Area (Recodified)
140.954	Administrative Review (Recodified)
140.956	Payments to Contracting Hospitals (Recodified)
140.958	Admitting and Clinical Privileges (Recodified)
140.960	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.962	Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.964	Contract Monitoring (Recodified)
140.966	Transfer of Recipients (Recodified)
140.968	Validity of Contracts (Recodified)
140.970	Termination of ICARE Contracts (Recodified)
140.972	Hospital Services Procurement Advisory Board (Recodified)
140.980	Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
140.982	Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)
140.TABLE A	Medichek Recommended Screening Procedures (Repealed)
140.TABLE B	Geographic Areas
140.TABLE C	Capital Cost Areas
140.TABLE D	Schedule of Dental Procedures
140.TABLE E	Time Limits for Processing of Prior Approval Requests
140.TABLE F	Podiatry Service Schedule
140.TABLE G	Travel Distance Standards
140.TABLE H	Areas of Major Life Activity
140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)
140.TABLE J	HSA Grouping (Repealed)
140.TABLE K	Services Qualifying for 10% Add-On (Repealed)
140.TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
140.TABLE M	Enhanced Rates for Maternal and Child Health Provider Services

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

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

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Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140. Table H and 140. Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989;

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amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992;

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emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995;

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amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957,

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effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days;

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emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 30 Ill. Reg. 17635, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.490 Medical Transportation

- a) Payment for medical transportation shall be made to an individual, public, private or not-for-profit transportation carrier, whose operators are properly licensed, who provides the appropriate form of transportation and who bills and receives payment from the general public and other third party payors (except for private autos pursuant to subsection (a)(5) of this Section). Eligible providers to be considered for payment include:
 - 1) Ambulance providers who hold a valid license, permit or certification from the state where the business is headquartered or from the Secretary of State (see Section 3-401 of the Illinois Vehicle Title and Registration Law [625 ILCS 5/3-401] and Section 8-101 of the Illinois Vehicle Code [625 ILCS 5/8-101]) and pass health/safety inspections annually by the Department of Public Health (see the Emergency Medical Services (EMS) Systems Act [210 ILCS 50]). Out-of-state ambulance providers who provide services within Illinois must be in compliance with the EMS Systems Act [210 ILCS 50]. Vehicles operated by municipalities must meet the certification requirements contained in 77 Ill. Adm. Code 535, Subpart C, by July 1, 1987. The Department will grant exceptions to this requirement if the municipality can demonstrate that the Illinois Department of Public Health has granted a waiver or exception to such requirements.
 - 2) Mediacar vehicles licensed by the Secretary of State (see Section 3-401 of the Illinois Vehicle Title and Registration Law and Section 8-101 of the Illinois Vehicle Code) or that hold a valid license, permit or certification

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from the state where the business is headquartered.

- 3) Taxicabs licensed by the Secretary of State and where applicable by local regulatory agencies (see Section 3-401 of the Illinois Vehicle Title and Registration Law and Section 8-101 of the Illinois Vehicle Code) or that hold a valid license, permit or certification from the state where the business is headquartered.
 - 4) Service cars licensed as livery cars by the Secretary of State and where applicable by local regulatory agencies (see Section 3-401 of the Illinois Vehicle Title and Registration Law and Section 8-101 of the Illinois Vehicle Code) or that hold a valid license, permit or certification from the state where the business is headquartered.
 - 5) Private automobiles licensed by the Secretary of State (see Section 3-401 of the Illinois Vehicle Title and Registration Law and Section 8-101 of the Illinois Vehicle Code) or licensed in the state of the owner's residence.
 - 6) Helicopter providers who hold a valid license from the State of Illinois issued under the authority of the State of Illinois Department of Public Health, or are licensed in the state where services are provided.
 - 7) Other modes of transportation such as buses, trains and commercial airplanes.
- b) Except as provided in subsection (c) of this Section, payment for medical transportation shall be made when transportation is provided for an eligible recipient to or from a source of medical care. Medical care is defined as any medically necessary service covered under the Medical Assistance Program. Payment for transportation will be made even when a covered medical service is provided free of charge or is reimbursed by a third party (for example, services provided by the U.S. Department of Veterans' Affairs).
- c) Payment for medical transportation shall not be made when:
- 1) A means of transportation to the source of medical care is available free of charge;
 - 2) The transportation is for the purpose of filling a prescription or obtaining medical supplies, equipment or any other pharmacy related item; or

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- 3) Proper prior or post approval authorization has not been made by the Department or its authorized agent.
- d) When more than one passenger requiring medical services is transported, payment for the first passenger will be at the full rate including mileage, base rate and ancillaries, if provided; payment for the second or additional passengers requiring medical services will be at only the base rate and ancillaries, if provided.
- e) Coverage for an employee attendant and a non-employee attendant.
 - 1) For the purposes of this subsection (e):
 - A) "Employee attendant" means a person, other than the driver, who is an employee of a medicar, service car or taxicab company.
 - B) "Non-employee attendant" means a family member or other individual who may accompany the patient when there is a medical need for such an attendant.
 - 2) The Department will pay for an attendant to accompany an eligible patient to and from the source of a covered medical service, by a medicar, a service car or a taxicab, when the circumstances constitute one of the following medical necessities. ~~(A~~ a physician's statement may be required to verify the medical necessity).
 - A) To accompany the patient to a medical provider when needed, such as a parent going with a child to the doctor or when an attendant is needed to assist the patient;
 - B) To participate in the patient's treatment when medically necessary; or
 - C) To learn to care for the patient after discharge from the hospital.
 - 3) The Department does not pay for transportation of family members to visit a hospitalized patient.
 - 4) For dates of service prior to July 1, 2006, the use of an attendant is subject to prior approval in all situations except for the non-emergency

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trips described in Section 140.491(b)(2). In the instances that prior approval is not required for an attendant, medical necessity must be documented in the record. The Department's authorized prior approval agent may require documentation of medical necessity. A medicar company may bill for the services of an employee and a non-employee attendant. Billings for the services of an employee attendant and a non-employee attendant are allowable when such services are rendered during a single trip. Service car and taxicab providers may receive payment only for a non-employee attendant.

- 5) For dates of service on or after July 1, 2006, the use of an attendant is subject to prior approval in all situations except for the non-emergency trips described in Section 140.491(b)(2). In the instances in which prior approval is not required for an attendant, medical necessity must be documented in the record. The Department's authorized prior approval agent may require documentation of medical necessity. A medicar, service car or taxicab may bill for the services of an employee and a non-employee attendant.

(Source: Amended at 30 Ill. Reg. 18648, effective November 27, 2006)

Section 140.492 Payment for Medical Transportation

Notwithstanding the provisions set forth in subsections (a) through (h) of this Section, beginning July 1, 2002, the reimbursement rates paid for medical transportation services shall be the lesser of the provider's usual and customary charge to the general public or 94 percent of the fiscal year 2002 rate otherwise determined by the Department under this Section. Payment for medical transportation services shall be made in accordance with the methodologies outlined in this Section. Base rate reimbursement is determined by the county in which the vehicle is, or the vehicles are, based. In no case shall rates exceed the Medicare allowable, where applicable, or the rates charged to the general public.

- a) For dates of service prior to July 1, 2006, medicars~~Medicars~~ shall be paid a base rate, which includes the first ten miles (20 miles round trip), a mileage rate and a fixed amount for an employee or non-employee attendant. Loaded miles, i.e., those miles for which the provider is actually transporting an individual, after ten miles (20 miles round trip) shall be reimbursed.
- b) For dates of service prior to July 1, 2006, service~~Service~~ cars shall be paid a base rate, which includes the first ten miles (20 miles round trip), a mileage rate and a

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fixed amount for a non-employee attendant. Loaded miles, i.e., those miles for which the provider is actually transporting an individual, after ten miles (20 miles round trip) shall be reimbursed.

- c) For dates of service on or after July 1, 2006, medicars and service cars shall be paid at a base rate, a mileage rate and a fixed amount for an attendant, as allowed in Section 140.490(e)(5). Mileage reimbursement is made for loaded miles, i.e., those miles for which the provider is actually transporting an individual. Mileage for multiple passengers is reimbursed pursuant to Section 140.490(d).
- de) Private autos shall be paid for loaded miles at a mileage rate.
- ed) Payment for transportation services provided by common carrier, such as commercial airplanes, buses and trains, shall be at the usual community rate.
- fe) Taxicabs in an area regulated by a municipality or township shall be reimbursed at the community rate and a fixed amount for ~~ana non-employee~~ attendant, as allowed in Section 140.490(e).
- gf) Taxicabs in non-regulated areas shall be reimbursed at a rate as determined by the Department and a fixed amount for ~~ana non-employee~~ attendant, as allowed in Section 140.490(e). The Department rate shall be reviewed on an annual basis each July.
- hg) The Department shall pay for medically necessary ambulance services provided in accordance with Section 140.490 at a base, mileage rate (loaded miles) and a rate for oxygen, as appropriate. Payment shall also be made for Advanced Life Support (ALS) at an all inclusive rate, which includes the base rate, supplies, and all other services, excluding mileage. However, for ALS services provided on or after July 1, 1993, separate reimbursement shall be made for oxygen when used and appropriately billed. Loaded miles for ALS trips shall be reimbursed at the per mile rate. Rates shall be reviewed beginning November 1, 1986, and each November thereafter, according to the methodology set forth in subsections (g)(1) through (4) of this Section. Revised rates pursuant to this methodology shall be effective with services provided on or after July 1 of the succeeding year.
- 1) Payment shall be made at a basic rate ~~that~~which is provider specific. The basic rate shall be the lesser of the provider's usual and customary charge to the general public, as reflected on the provider's claim form, or 80 percent of the 50th percentile of the Medicare prevailing charge for Basic

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Life Support for the designated Medicare Locality, except that any basic rate previously approved by the Department that exceeds these parameters shall remain in force. The rate of annual increase shall not exceed five percent.

- 2) Payment for loaded miles shall be at a rate per mile. If a natural disaster, weather or other conditions necessitate the use of a route other than the most direct route, reimbursement will be based on the actual distance traveled. The rate per mile shall be 50 percent of the 50th percentile of the Medicare prevailing mileage charge for Medicare Locality 16. The annual rate of increase shall not exceed five percent.
 - 3) Payment for oxygen shall be made at a flat rate statewide. The rate shall be 50 percent of the 50th percentile of the Medicare prevailing charge for Medicare Locality 16. The annual rate of increase shall not exceed five percent.
 - 4) Payment for Advanced Life Support services shall be at the lesser of the provider's usual charge, or a maximum allowable rate statewide. The maximum rate shall be 80 percent of the difference between the Medicare 50th percentile prevailing charge for Basic Life Support services and Advanced Life Support services for Medicare Locality 16. The annual rate of increase shall not exceed five percent.
- | **ih)** Payment for medical transportation services provided by individuals, including those currently receiving public assistance, legally responsible relatives or household members, will be made at a loaded mileage rate.
- | **ji)** The Department may adjust reimbursement for medical transportation services in a county when such adjustment is necessary to ensure the availability of transportation to medical services.

(Source: Amended at 30 Ill. Reg. 18648, effective November 27, 2006)

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- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Numbers: Adopted Action:
148.126 Amendment
148.295 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: November 27, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 26, 2006; 30 Ill. Reg. 9399
- 10) Has JCAR issued a Statement of Objection to these amendments? 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 agreements issued by JCAR? There were no changes.
- 13) Will this rulemaking replace any emergency rulemakings currently in effect? Yes
- 14) Are there any other amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
148.126	Amendment	30 Ill. Reg. 2681; March 10, 2006
148.140	Amendment	30 Ill. Reg. 13268; August 11, 2006
148.210	Amendment	30 Ill. Reg. 13636; August 18, 2006
- 15) Summary and Purpose of Amendments: These proposed amendments concerning hospital services provide additional funding under Safety Net Adjustment Payments (SNAP) and Critical Hospital Adjustment Payments (CHAP) to ensure access to quality

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health care for medical assistance clients. Annual spending is expected to increase by approximately \$12.1 million and \$8.6 million for SNAP and CHAP respectively.

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

Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 148

HOSPITAL SERVICES

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Section

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

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section

148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.85	Supplemental Tertiary Care Adjustment Payments
148.90	Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments
148.95	Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments
148.100	Outpatient Rural Hospital Adjustment Payments
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148.105	Psychiatric Adjustment Payments
148.110	Psychiatric Base Rate Adjustment Payments
148.112	High Volume Adjustment Payments
148.115	Rural Adjustment Payments
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.122	Medicaid Percentage Adjustments
148.126	Safety Net Adjustment Payments
148.130	Outlier Adjustments for Exceptionally Costly Stays
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148.150	Public Law 103-66 Requirements
148.160	Payment Methodology for County-Owned Hospitals in an Illinois County with a

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- 148.170 Population of Over Three Million
Payment Methodology for Hospitals Organized Under the University of Illinois
Hospital Act
- 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals
Organized Under the Town Hospital Act
- 148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can
Be Performed in an Outpatient Setting
- 148.190 Copayments
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- 148.220 Pre September 1, 1991, Admissions
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Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
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- 148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment
Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other
Hospitals
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals
Reimbursed Under Special Arrangements
- 148.285 Excellence in Academic Medicine Payments
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments (CHAP)
- 148.296 Tertiary Care Adjustment Payments
- 148.297 Pediatric Outpatient Adjustment Payments
- 148.298 Pediatric Inpatient Adjustment Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives
- 148.330 Exemptions
- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services
(Repealed)
- 148.368 Volume Adjustment (Repealed)
- 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
- 148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services
(Repealed)
- 148.390 Hearings

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148.400	Special Hospital Reporting Requirements
148.402	Medicaid Eligibility Payments
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148.406	Intensive Care Adjustment Payments
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148.416	Crossover Percentage Adjustment Payments
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148.426	Outpatient Complexity of Care Adjustment Payments
148.428	Rehabilitation Hospital Adjustment Payments
148.430	Perinatal Outpatient Adjustment Payments
148.432	Supplemental Psychiatric Adjustment Payments
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SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section	
148.500	Definitions
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SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

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

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

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SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997;

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amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27

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Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; emergency expired September 6, 2006; amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.126 Safety Net Adjustment Payments

- a) Qualifying criteria: Safety net adjustment payments shall be made to a qualifying hospital, as defined in this subsection (a) unless the hospital does not provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code

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250.710(a) on or after July 1, 2006, but did provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on January 1, 2006.

A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it meets one of the following criteria:

- 1) The hospital has, as provided in subsection (e)(6) of this Section, an MIUR equal to or greater than 40 percent.
- 2) The hospital has the highest number of obstetrical care days in the safety net hospital base year.
- 3) The hospital is, as of October 1, 2001, a sole community hospital, as defined by the United States Department of Health and Human Services (42 CFR 412.92).
- 4) The hospital is, as of October 1, 2001, a rural hospital, as described in Section 148.25(g)(3), that meets all of the following criteria:
 - A) Has an MIUR greater than 33 percent.
 - B) Is designated a perinatal level two center by the Illinois Department of Public Health.
 - C) Has fewer than 125 licensed beds.
- 5) The hospital is a rural hospital, as described in Section 148.25(g)(3).
- 6) The hospital meets all of the following criteria:
 - A) Has an MIUR greater than 30 percent.
 - B) Had an occupancy rate greater than 80 percent in the safety net hospital base year.
 - C) Provided greater than 15,000 total days in the safety net hospital base year.
- 7) The hospital meets all of the following criteria:
 - A) Does not already qualify under subsections (a)(1) through (a)(6) of

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this Section.

- B) Has an MIUR greater than 25 percent.
- C) Had an occupancy rate greater than 68 percent in the safety net hospital base year.
- D) Provided greater than 12,000 total days in the safety net hospital base year.

~~8) The hospital meets all of the following criteria:~~

- ~~A) Does not already qualify under subsections (a)(1) through (a)(7) of this Section.~~
- ~~B) Is located outside of HSA-6.~~
- ~~C) Has an MIUR greater than 16 percent.~~
- ~~D) Has more than 475 licensed beds.~~
- ~~E) Has an average length of stay less than five days.~~

89) The hospital meets all of the following criteria in the safety net base year:

- A) Is a rural hospital, as described in Section 148.25(g)(3).
- B) Has an MIUR greater than 18 percent.
- C) Has a combined MIUR greater than 45 percent.
- D) Has licensed beds less than or equal to 60.
- E) Provided greater than 400 total days.
- F) Provided fewer than 125 obstetrical care days.

940) The hospital meets all of the following criteria in the safety net base year:

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- A) Is a psychiatric hospital, as described in 89 Ill. Adm. Code 149.50(c)(1).
- B) Has licensed beds greater than 120.
- C) Has an average length of stay less than ten days.

10) The hospital meets all of the following criteria in the safety net base year:

- A) Does not already qualify under subsections (a)(1) through (a)(9) of this Section.
- B) Has an MIUR greater than 17 percent.
- C) Has licensed beds greater than 450.
- D) Has an average length of stay less than four days.

11) The hospital meets all of the following criteria in the safety net base year:

- A) Does not already qualify under subsections (a)(1) through (a)(10) of this Section.
- B) Has an MIUR greater than 21 percent.
- C) Has licensed beds greater than 350.
- D) Has an average length of stay less than 3.15 days.

12) The hospital meets all of the following criteria in the safety net base year:

- A) Does not already qualify under subsections (a)(1) through (a)(11) of this Section.
- B) Has an MIUR greater than 34 percent.
- C) Has licensed beds greater than 350.
- D) Is designated a perinatal Level II center by the Illinois Department of Public Health.

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13) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(12) of this Section.

B) Has an MIUR greater than 35 percent.

C) Has an average length of stay less than four days.

14) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(13) of this Section.

B) Has a CMIUR greater than 25 percent.

C) Has an MIUR greater than 12 percent.

D) Is designated a perinatal Level II center by the Illinois Department of Public Health.

E) Has licensed beds greater than 400.

F) Has an average length of stay less than 3.5 days.

b) The following five classes of hospitals are ineligible for safety net adjustment payments associated with the qualifying criteria listed in subsections (a)(1) through (a)(4), ~~and~~ subsections (a)(6) through (a)(89) ~~and subsections (a)(10) of this Section:~~ through (a)(14) of this Section:

- 1) Hospitals located outside of Illinois.
- 2) County-owned hospitals, as described in Section 148.25(b)(1)(A).
- 3) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).
- 4) Psychiatric hospitals, as described in 89 Ill. Adm. Code 149.50(c)(1).

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- 5) Long term stay hospitals, as described in 89 Ill. Adm. Code 149.50(c)(4).
- c) Safety Net Adjustment Rates
- 1) For a hospital qualifying under subsection (a)(1) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:
- A) A qualifying hospital – \$15.00.
- B) A rehabilitation hospital, as described in 89 Ill. Adm. Code 149.50(c)(2) – \$20.00.
- C) A children's hospital, as described in 89 Ill. Adm. Code 149.50(c)(3) – \$20.00.
- D) A children's hospital that has an MIUR greater than or equal to 80 per centum that is:
- i) Located within HSA 6 or HSA 7 – ~~\$296.00~~\$200.50.
- ii) Located outside HSA 6 or HSA 7 – \$35.00.
- E) A children's hospital that has an MIUR less than 80 per centum, but greater than or equal to 60 per centum, that is:
- i) Located within HSA 6 or HSA 7 – \$35.00.
- ii) Located outside HSA 6 or HSA 7 – \$15.00.
- F) A children's hospital that has an MIUR less than 60 per centum, but greater than or equal to 45 per centum, that is:
- i) Located within HSA 6 or HSA 7 – \$12.00.
- ii) Located outside HSA 6 or HSA 7 – \$5.00.
- G) A children's hospital with more than 25 graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory" – \$125.00.

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- H) A children's hospital that is a rural hospital – \$145.00.
- I) A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital that is located in HSA 6 and that:
- i) Provides obstetrical care – \$10.00.
 - ii) Has at least one graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – \$5.00.
 - iii) Has at least one obstetrical graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – \$5.00.
 - iv) Provided more than 5,000 obstetrical days during the safety net hospital base year – \$35.00.
 - v) Provided fewer than 4,000 obstetrical days during the safety net hospital base year and its average length of stay is: less than or equal to 4.50 days – \$5.00; less than 4.00 days – \$5.00; less than 3.75 days – \$5.00.
 - vi) Provides obstetrical care and has an MIUR greater than 65 percent – \$11.00.
 - vii) Has greater than 700 licensed beds – \$37.75.
- J) A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital, that is located outside HSA 6, that has an MIUR greater than 50 per centum, and that:
- i) Provides obstetrical care – \$70.00.
 - ii) Does not provide obstetrical care – \$30.00.
 - iii) Is a trauma center, recognized by the Illinois Department of Public Health (IDPH), as of July 1, 2005 – \$173.50~~\$84.00~~.

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- K) A qualifying hospital that provided greater than 35,000 total days in the safety net hospital base year – \$6.00.
 - L) A qualifying hospital with two or more graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory", with an average length of stay fewer than 4.00 days – \$48.00.
- 2) For a hospital qualifying under subsection (a)(2) of this Section, the rate shall be \$123.00.
 - 3) For a hospital qualifying under subsection (a)(3) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:
 - A) A qualifying hospital – \$40.00.
 - B) A hospital that has an average length of stay of fewer than 4.00 days, and:
 - i) More than 150 licensed beds – \$20.00.
 - ii) Fewer than 150 licensed beds – \$40.00.
 - C) A qualifying hospital with the lowest average length of stay – \$15.00.
 - D) A hospital that has a CMIUR greater than 65 per centum – \$35.00.
 - E) A hospital that has fewer than 25 total admissions in the safety net hospital base year – \$160.00.
 - 4) For a hospital qualifying under subsection (a)(4) of this Section, the rate shall be \$55.00.
 - 5) For a hospital qualifying under subsection (a)(5) of this Section, the rate is the sum of the amounts for each of the following for which it qualifies, divided by the hospital's total days:
 - A) The hospital that has the highest number of obstetrical care

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admissions – \$30,840.00.

B) The greater of:

i) The product of \$115.00 multiplied by the number of obstetrical care admissions.

ii) The product of \$11.50 multiplied by the number of general care admissions.

6) For a hospital qualifying under subsection (a)(6) of this Section, the rate is \$53.00.

7) For a hospital qualifying under subsection (a)(7) of this Section, the rate is \$175.50~~\$117.00~~.

~~8) For a hospital qualifying under subsection (a)(8) of this Section, the rate is \$34.50.~~

~~89) For a hospital qualifying under subsection (a)(8)(9) of this Section, the rate is \$124.50.~~

~~910) For a hospital qualifying under subsection (a)(9)(10) of this Section, the rate is \$85.50.~~

10) For a hospital qualifying under subsection (a)(10) of this Section, the rate is \$13.75.

11) For a hospital qualifying under subsection (a)(11) of this Section, the rate is \$39.50.

12) For a hospital qualifying under subsection (a)(12) of this Section, the rate is \$120.25.

13) For a hospital qualifying under subsection (a)(13) of this Section, the rate is \$231.50.

14) For a hospital qualifying under subsection (a)(14) of this Section, the rate is \$172.00.

d) Payment to a Qualifying Hospital

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- 1) The total annual payments to a qualifying hospital shall be the product of the hospital's rate multiplied by two multiplied by total days.
 - 2) For the safety net adjustment period occurring in State fiscal year 2006, total payments will equal the methodologies described in subsection (c) of this Section. For the period October 1, 2005 through June 30, 2006, payment will equal the State fiscal year 2006 amount less the amount the hospital received under the safety net adjustment period for the quarter ending September 30, 2005.
 - 3) For safety net adjustment periods occurring after State fiscal year 2006, total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital during the safety net adjustment period in installments on, at least, a quarterly basis.
- e) Definitions
- 1) "Average length of stay" means, for a given hospital, a fraction in which the numerator is the number of total days and the denominator is the number of total admissions.
 - 2) "CMIUR" means, for a given hospital, the sum of the MIUR plus the Medicaid obstetrical inpatient utilization rate, determined as of October 1, 2001, as defined in Section 148.120(k)(6).
 - 3) "General care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department by June 30, 2001, excluding admissions for: obstetrical care, as defined in subsection (e)(7) of this Section; normal newborns; psychiatric care; physical rehabilitation; and those covered in whole or in part by Medicare (Medicaid/Medicare crossover admissions).
 - 4) "HSA" means Health Service Area, as defined by the Illinois Department of Public Health.
 - 5) "Licensed beds" means, for a given hospital, the number of licensed beds,

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excluding long term care and substance abuse beds, as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois."

- 6) "MIUR", for a given hospital, has the meaning as defined in Section 148.120(k)(5) and shall be determined in accordance with Section 148.120(c) and (f). For purposes of this Section, the MIUR determination that was used to determine a hospital's eligibility for Disproportionate Share Hospital Adjustment payments in rate year 2002 shall be the same determination used to determine a hospital's eligibility for safety net adjustment payments in the Safety Net Adjustment Period.
- 7) "Obstetrical care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data, for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001, and were assigned by the Department a diagnosis related grouping (DRG) code of 370 through 375.
- 8) "Obstetrical care days" means, for a given hospital, days of hospital inpatient service associated with the obstetrical care admissions described in subsection (e)(7) of this Section.
- 9) "Occupancy rate" means a fraction, the numerator of which is the hospital's total days, excluding long term care and substance abuse days, and the denominator of which is the hospital's total beds, excluding long term care and substance abuse beds, multiplied by 365 days. The data used for calculation of the hospital occupancy rate is as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois."
- 10) "Safety net hospital base year" means the 12-month period beginning on July 1, 1999, and ending on June 30, 2000.
- 11) "Safety net adjustment period" means, beginning July 1, 2002, the 12 month period beginning on July 1 of a year and ending on June 30 of the following year.

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- 12) "Total admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover admissions), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.
- 13) "Total days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.

(Source: Amended at 30 Ill. Reg. 18672, effective November 27, 2006)

Section 148.295 Critical Hospital Adjustment Payments (CHAP)

Critical Hospital Adjustment Payments (CHAP) shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), unless otherwise noted in this Section, and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for inpatient admissions occurring on or after July 1, 1998, in accordance with this Section.

- a) Trauma Center Adjustments (TCA)
The Department shall make a TCA to Illinois hospitals recognized, as of the first day of July in the CHAP rate period, as a Level I or Level II trauma center by the Illinois Department of Public Health (IDPH) in accordance with the provisions of subsections (a)(1) through (a)(3) of this Section.
- 1) Level I Trauma Center Adjustment.
- A) Criteria. Illinois hospitals that, on the first day of July in the CHAP rate period, are recognized as a Level I trauma center by the Illinois Department of Public Health shall receive the Level I trauma center adjustment.

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- B) Adjustment. Illinois hospitals meeting the criteria specified in subsection (a)(1)(A) of this Section shall receive an adjustment as follows:
- i) Hospitals with Medicaid trauma admissions equal to or greater than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of \$21,365.00 per Medicaid trauma admission in the CHAP base period.
 - ii) Hospitals with Medicaid trauma admissions less than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of \$14,165.00 per Medicaid trauma admission in the CHAP base period.
- 2) Level II Rural Trauma Center Adjustment. Illinois rural hospitals, as defined in Section 148.25(g)(3), that, on the first day of July in the CHAP rate period, are recognized as a Level II trauma center by the Illinois Department of Public Health shall receive an adjustment of \$11,565.00 per Medicaid trauma admission in the CHAP base period.
- 3) Level II Urban Trauma Center Adjustment. Illinois urban hospitals, as described in Section 148.25(g)(4), that, on the first day of July in the CHAP rate period, are recognized as Level II trauma centers by the Illinois Department of Public Health shall receive an adjustment of \$11,565.00 per Medicaid trauma admission in the CHAP base period, provided that such hospital meets the criteria described below:
- A) The hospital is located in a county with no Level I trauma center; and
 - B) The hospital is located in a Health Professional Shortage Area (HPSA) (42 CFR 5), as of the first day of July in the CHAP rate period, and has a Medicaid trauma admission percentage at or above the mean of the individual facility values determined in subsection (a)(3) of this Section; or the hospital is not located in an HPSA and has a Medicaid trauma admission percentage that is at least the mean plus one standard deviation of the individual facility values determined in subsection (a)(3) of this Section.

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- b) **Rehabilitation Hospital Adjustment (RHA)**
Illinois hospitals that, on the first day of July in the CHAP rate period, qualify as rehabilitation hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(2), and that are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), shall receive a rehabilitation hospital adjustment in the CHAP rate period that consists of the following three components:
- 1) **Treatment Component.** All hospitals defined in subsection (b) of this Section shall receive \$4,215.00 per Medicaid Level I rehabilitation admission in the CHAP base period.
 - 2) **Facility Component.** All hospitals defined in subsection (b) of this Section shall receive a facility component that shall be based upon the number of Medicaid Level I rehabilitation admissions in the CHAP base period as follows:
 - A) Hospitals with fewer than 60 Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of \$229,360.00 in the CHAP rate period.
 - B) Hospitals with 60 or more Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of \$527,528.00 in the CHAP rate period.
 - 3) **Health Professional Shortage Area Adjustment Component.** Hospitals defined in subsection (b) of this Section that are located in an HPSA on July 1, 1999, shall receive \$276.00 per Medicaid Level I rehabilitation inpatient day in the CHAP base period.
- c) **Direct Hospital Adjustment (DHA) Criteria**
- 1) **Qualifying Criteria**
Hospitals may qualify for the DHA under this subsection (c) under the following categories unless the hospital does not provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on or after July 1, 2006, but did provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on January 1, 2006:

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- A) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals and long term stay hospitals, all other hospitals located in Health Service Area (HSA) 6 that either:
- i) were eligible for Direct Hospital Adjustments under the CHAP program as of July 1, 1999, and had a Medicaid inpatient utilization rate (MIUR) equal to or greater than the statewide mean in Illinois on July 1, 1999;
 - ii) were eligible under the Supplemental Critical Hospital Adjustment Payment (SCHAP) program as of July 1, 1999, and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999; or
 - iii) were county owned hospitals as defined in 89 Ill. Adm. Code 148.25(b)(1)(A), and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999.
- B) Illinois hospitals located outside of HSA 6 that had an MIUR greater than 60 percent on July 1, 1999, and an average length of stay less than ten days. The following hospitals are excluded from qualifying under this subsection (c)(1)(B): children's hospitals; psychiatric hospitals; rehabilitation hospitals; and long term stay hospitals.
- C) Children's hospitals, as defined under 89 Ill. Adm. Code 149.50(c)(3), on July 1, 1999.
- D) Illinois teaching hospitals, with more than 40 graduate medical education programs on July 1, 1999, not qualifying in subsection (c)(1)(A), (B), or (C) of this Section.
- E) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals qualifying in subsection (c)(1)(A), (B), (C) or (D) of this Section, all other hospitals located in Illinois that had an MIUR equal to or greater than the mean plus one-half standard deviation on July 1, 1999, and provided more than 15,000 Total days.

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- F) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A), (B), (C), (D), or (E) of this Section, all other hospitals that had an MIUR greater than 40 percent on July 1, 1999, and provided more than 7,500 Total days and provided obstetrical care as of July 1, 2001.
- G) Illinois teaching hospitals with 25 or more graduate medical education programs on July 1, 1999, that are affiliated with a Regional Alzheimer's Disease Assistance Center as designated by the Alzheimer's Disease Assistance Act [410 ILCS 405/4], that had an MIUR less than 25 percent on July 1, 1999, and provided 75 or more Alzheimer days for patients diagnosed as having the disease.
- H) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A) through (c)(1)(G) of this Section, all other hospitals that had an MIUR greater than 50 percent on July 1, 1999.
- I) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A) through (c)(1)(H) of this Section, all other hospitals that had an MIUR greater than 23 percent on July 1, 1999, had an average length of stay less than four days, provided more than 4,200 Total days and provided 100 or more Alzheimer days for patients diagnosed as having the disease.
- 2) DHA Rates
- A) For hospitals qualifying under subsection (c)(1)(A) of this Section, the DHA rates are as follows:
- i) Hospitals that have a Combined MIUR that is equal to or greater than the Statewide mean Combined MIUR, but less than one standard deviation above the Statewide mean

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Combined MIUR, will receive \$69.00 per day for hospitals that do not provide obstetrical care and \$105.00 per day for hospitals that do provide obstetrical care.

- ii) Hospitals that have a Combined MIUR that is equal to or greater than one standard deviation above the Statewide mean Combined MIUR, but less than one and one-half standard deviation above the Statewide mean Combined MIUR, will receive \$105.00 per day for hospitals that do not provide obstetrical care and \$142.00 per day for hospitals that do provide obstetrical care.
 - iii) Hospitals that have a Combined MIUR that is equal to or greater than one and one-half standard deviation above the Statewide mean Combined MIUR, but less than two standard deviations above the Statewide mean Combined MIUR, will receive \$124.00 per day for hospitals that do not provide obstetrical care and \$160.00 per day for hospitals that do provide obstetrical care.
 - iv) Hospitals that have a Combined MIUR that is equal to or greater than two standard deviations above the Statewide mean Combined MIUR will receive \$142.00 per day for hospitals that do not provide obstetrical care and \$179.00 per day for hospitals that do provide obstetrical care.
- B) Hospitals qualifying under subsection (c)(1)(A) of this Section will also receive the following rates:
- i) County owned hospitals as defined in Section 148.25 with more than 30,000 Total days will have their rate increased by \$455.00 per day.
 - ii) Hospitals that are not county owned with more than 30,000 Total days will have their rate increased by \$330.00 per day.
 - iii) Hospitals with more than 80,000 Total days will have their rate increased by an additional \$423.00 per day.

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- iv) Hospitals with more than 4,500 Obstetrical days will have their rate increased by \$101.00 per day.
 - v) Hospitals with more than 5,500 Obstetrical days will have their rate increased by an additional \$194.00 per day.
 - vi) Hospitals with an MIUR greater than 74 percent will have their rate increased by \$147.00 per day.
 - vii) Hospitals with an average length of stay less than 3.9 days will have their rate increased by \$41.00 per day.
 - viii) Hospitals with an MIUR greater than the statewide mean plus one standard deviation that are designated a Perinatal Level 2 Center and have one or more obstetrical graduate medical education programs as of July 1, 1999, will have their rate increased by \$227.00 per day.
 - ix) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an average length of stay less than four days will have their rate increased by ~~\$528.00~~\$182.25 per day.
 - x) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an MIUR greater than 60 percent will have their rate increased by ~~\$320.50~~\$281.00 per day.
 - xi) Hospitals receiving payments under subsection (c)(2)(A)(iv) of this Section that have an MIUR greater than 70 percent and have more than 20,000 days will have their rate increased by \$98.00 per day.
 - xii) Hospitals with a Combined MIUR greater than 75 percent that have more than 20,000 total days, have an average length of stay less than five days and have at least one graduate medical program will have their rate increased by \$148.00 per day.
- C) Hospitals qualifying under subsection (c)(1)(B) of this Section will receive the following rates:

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- i) Qualifying hospitals will receive a rate of \$421.00 per day.
 - ii) Qualifying hospitals with more than 1,500 Obstetrical days will have their rate increased by \$369.00 per day.
- D) Hospitals qualifying under subsection (c)(1)(C) of this Section will receive the following rates:
- i) Hospitals will receive a rate of \$28.00 per day.
 - ii) Hospitals located in Illinois and outside of HSA 6 that have an MIUR greater than 60 percent will have their rate increased by \$55.00 per day.
 - iii) Hospitals located in Illinois and inside HSA 6 that have an MIUR greater than 80 percent will have their rate increased by \$573.00 per day.
 - iv) Hospitals that are not located in Illinois that have an MIUR greater than 45 percent will have their rate increased by \$32.00 per day for hospitals that have fewer than 4,000 Total days; or \$246.00 per day for hospitals that have more than 4,000 Total days but fewer than 8,000 Total days; or \$178.00 per day for hospitals that have more than 8,000 Total days.
 - v) Hospitals with more than 3,200 Total admissions will have their rate increased by \$328.00 per day.
- E) Hospitals qualifying under subsection (c)(1)(D) of this Section will receive the following rates:
- i) Hospitals will receive a rate of \$41.00 per day.
 - ii) Hospitals with an MIUR between 18 percent and 19.75 percent will have their rate increased by an additional \$14.00 per day.

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- iii) Hospitals with an MIUR equal to or greater than 19.75 percent will have their rate increased by an additional ~~\$110.25~~~~\$87.00~~ per day.
 - iv) Hospitals with a combined MIUR that is equal to or greater than 35 percent will have their rate increased by an additional \$41.00 per day.
 - F) Hospitals qualifying under subsection (c)(1)(E) of this Section will receive \$188.00 per day.
 - G) Hospitals qualifying under subsection (c)(1)(F) of this Section will receive a rate of \$55.00 per day.
 - H) Hospitals that qualify under subsection (c)(1)(G) of this Section will receive the following rates:
 - i) Hospitals with an MIUR greater than 19.75 percent will receive a rate of \$69.00 per day.
 - ii) Hospitals with an MIUR equal to or less than 19.75 percent will receive a rate of \$11.00 per day.
 - I) Hospitals qualifying under subsection (c)(1)(H) of this Section will receive a rate of \$268.00 per day.
 - J) Hospitals qualifying under subsection (c)(1)(I) of this Section will receive a rate of \$238.00 per day.
 - K) Hospitals that qualify under subsection (c)(1)(A)(iii) of this Section will have their rates multiplied by a factor of two. The payments calculated under this Section to hospitals that qualify under subsection (c)(1)(A)(iii) of this Section may be adjusted by the Department to ensure compliance with aggregate and hospital specific federal payment limitations. A portion of the payments calculated under this Section may be classified as disproportionate share adjustments for hospitals qualifying under subsection (c)(1)(A)(iii) of this Section.
- 3) DHA Payments

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- A) Payments under this subsection (c) will be made at least quarterly, beginning with the quarter ending December 31, 1999.
- B) Payment rates will be multiplied by the Total days.
- C) Total Payment Adjustments
 - i) For the CHAP rate period occurring in State fiscal year 2006, total payments will equal the methodologies described in subsection (c)(2) of this Section. For the period January 1, 2006, to June 30, 2006, payment will equal the State fiscal year 2006 amount less the amount the hospital received under DHA for the quarters ending September 30, 2006, and December 31, 2006.
 - ii) For CHAP rate periods occurring after State fiscal year 2006, total payments will equal the methodologies described in subsection (c)(2) of this Section.
- d) Rural Critical Hospital Adjustment Payments (RCHAP)
RCHAP shall be made to rural hospitals, as described in 89 Ill. Adm. Code 140.80(j)(1), for certain inpatient admissions. The hospital qualifying under this subsection that has the highest number of Medicaid obstetrical care admissions during the CHAP base period shall receive \$367,179.00 per year. The Department shall also make an RCHAP to hospitals qualifying under this subsection at a rate that is the greater of:
 - 1) the product of \$1,367.00 multiplied by the number of RCHAP Obstetrical Care Admissions in the CHAP base period, or
 - 2) the product of \$138.00 multiplied by the number of RCHAP General Care Admissions in the CHAP base period.
- e) Total CHAP Adjustments
Each eligible hospital's critical hospital adjustment payment shall equal the sum of the amounts described in subsections (a), (b), (c) and (d) of this Section. The critical hospital adjustment payments shall be paid at least quarterly.
- f) Critical Hospital Adjustment Limitations

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Hospitals that qualify for trauma center adjustments under subsection (a) of this Section shall not be eligible for the total trauma center adjustment if, during the CHAP rate period, the hospital is no longer recognized by the Illinois Department of Public Health as a Level I trauma center as required for the adjustment described in subsection (a)(1) of this Section, or a Level II trauma center as required for the adjustment described in subsection (a)(2) or (a)(3) of this Section. In these instances, the adjustments calculated shall be pro-rated, as applicable, based upon the date that such recognition ceased.

g) Critical Hospital Adjustment Payment Definitions

The definitions of terms used with reference to calculation of the CHAP required by this Section are as follows:

- 1) "Alzheimer days" means total paid days contained in the Department's paid claims database with a ICD-9-CM diagnosis code of 331.0 for dates of service occurring in State fiscal year 2001 and adjudicated through June 30, 2002.
- 2) "CHAP base period" means State Fiscal Year 1994 for CHAP calculated for the July 1, 1995; CHAP rate period; State Fiscal Year 1995 for CHAP calculated for the July 1, 1996; CHAP rate period; etc.
- 3) "CHAP rate period" means, beginning July 1, 1995, the 12 month period beginning on July 1 of the year and ending June 30 of the following year.
- 4) "Combined MIUR" means the sum of Medicaid Inpatient Utilization Rate (MIUR) as of July 1, 1999, and as defined in Section 148.120(k)(5), plus the Medicaid obstetrical inpatient utilization rate, as described in Section 148.120(k)(6), as of July 1, 1999.
- 5) "Medicaid general care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns, Medicare/Medicaid crossover admissions, psychiatric and rehabilitation admissions.
- 6) "Medicaid Level I rehabilitation admissions" means those claims billed as Level I admissions that were subsequently adjudicated by the Department

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through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 054.3, 310.1 through 310.2, 320.1, 336.0 through 336.9, 344.0 through 344.2, 344.8 through 344.9, 348.1, 801.30, 803.10, 803.84, 806.0 through 806.19, 806.20 through 806.24, 806.26, 806.29 through 806.34, 806.36, 806.4 through 806.5, 851.06, 851.80, 853.05, 854.0 through 854.04, 854.06, 854.1 through 854.14, 854.16, 854.19, 905.0, 907.0, 907.2, 952.0 through 952.09, 952.10 through 952.16, 952.2, and V57.0 through V57.89, excluding admissions for normal newborns.

- 7) "Medicaid Level I rehabilitation inpatient day" means the days associated with the claims defined in subsection (g)(5) of this Section.
- 8) "Medicaid obstetrical care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of Social Security Act, with Diagnosis Related Grouping (DRG) of 370 through 375; and specifically excludes Medicare/Medicaid crossover claims.
- 9) "Medicaid trauma admission" means those claims billed as admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 800.0 through 800.99, 801.0 through 801.99, 802.0 through 802.99, 803.0 through 803.99, 804.0 through 804.99, 805.0 through 805.99, 806.0 through 806.99, 807.0 through 807.69, 808.0 through 808.9, 809.0 through 809.1, 828.0 through 828.1, 839.0 through 839.31, 839.7 through 839.9, 850.0 through 850.9, 851.0 through 851.99, 852.0 through 852.59, 853.0 through 853.19, 854.0 through 854.19, 860.0 through 860.5, 861.0 through 861.32, 862.8, 863.0 through 863.99, 864.0 through 864.19, 865.0 through 865.19, 866.0 through 866.13, 867.0 through 867.9, 868.0 through 868.19, 869.0 through 869.1, 887.0 through 887.7, 896.0 through 896.3, 897.0 through 897.7, 900.0 through 900.9, 902.0 through 904.9, 925 through 925.2, 926.8, 929.0 through 929.99, 958.4, 958.5, 990 through 994.99.

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- 10) "Medicaid trauma admission percentage" means a fraction, the numerator of which is the hospital's Medicaid trauma admissions and the denominator of which is the total Medicaid trauma admissions in a given 12 month period for all Level II urban trauma centers.
- 11) "RCHAP general care admissions" means Medicaid General Care Admissions, as defined in subsection (g)(4) of this Section, less RCHAP Obstetrical Care Admissions, occurring in the CHAP base period.
- 12) "RCHAP obstetrical care admissions" means Medicaid Obstetrical Care Admissions, as defined in subsection (g)(7) of this Section, with a Diagnosis Related Grouping (DRG) of 370 through 375, occurring in the CHAP base period.
- 13) "Total admissions" means total paid admissions contained in the Department's paid claims database, including obstetrical admissions multiplied by two and excluding Medicare crossover admissions, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.
- 14) "Total days" means total paid days contained in the Department's paid claims database, including obstetrical days multiplied by two and excluding Medicare crossover days, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.
- 15) "Total obstetrical days" means hospital inpatient days for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999, with an ICD-9-CM principal diagnosis code of 640.0 through 648.9 with a 5th digit of 1 or 2; 650; 651.0 through 659.9 with a 5th digit of 1, 2, 3, or 4; 660.0 through 669.9 with a 5th digit of 1, 2, 3, or 4; 670.0 through 676.9 with a 5th digit of 1 or 2; V27 through V27.9; V30 through V39.9; or any ICD-9-CM principal diagnosis code that is accompanied with a surgery procedure code between 72 and 75.99; and specifically excludes Medicare/Medicaid crossover claims.

(Source: Amended at 30 Ill. Reg. 18672, effective November 27, 2006)

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- 1) Heading of the Part: Hospital Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 152
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
152.150	Amendment
152.200	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: November 27, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 26, 2006; 30 Ill. Reg. 9430
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: Under the Authority Section, the reference, "and implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art.III]" was removed. It has been repealed.
- 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 rulemaking replace any emergency rulemaking currently in effect? Yes, (effective July 1, 2006; 30 Ill. Reg. 11847)
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These amendments provide changes concerning outlier adjustment payments to address spending that has been steadily growing during recent years. Under these changes, which are applicable to hospitals reimbursed on a per diem basis and under the Diagnosis Related Grouping (DRG) Prospective Payment System (PPS), the hospital outlier calculation methodology is revised to control the

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growth of outlier spending consistent with cost saving reforms outlined in the fiscal year 2007 budget. Cost savings of approximately \$15 million are anticipated during fiscal year 2007.

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

Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 152

HOSPITAL REIMBURSEMENT CHANGES

Section

152.100	Reimbursement Add-on Adjustments (Repealed)
152.150	Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)
152.200	Non-DRG Reimbursement Methodologies
152.250	Appeals (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Sections 12-13 and 14-8 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13 and 14-8].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2150, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10141, effective June 17, 1994; emergency amendment at 19 Ill. Reg. 6706, effective May 12, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10236, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16272, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9272, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15712, effective November 27, 1996; emergency amendment at 21 Ill. Reg. 9544, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16153, effective November 26, 1997; emergency amendment at 25 Ill. Reg. 218, effective January 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6966, effective May 28, 2001; emergency amendment at 25 Ill. Reg. 16122, effective December 3, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 7309, effective April 29, 2002; emergency amendment at 29 Ill. Reg. 10299, effective July 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19997, effective November 23, 2005; emergency amendment at 30 Ill. Reg. 11847, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18703, effective November 27, 2006.

Section 152.150 Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)

- a) Notwithstanding any provisions set forth in 89 Ill. Adm. Code 149, the changes described in subsections (b) and (c) of this Section will be effective January 18, 1994.
- b) For the rate periods, as described in 89 Ill. Adm. Code 148.25(g)(2)(B), the DRG

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weighting factors shall be adjusted by a factor, the numerator of which is the statewide weighted average DRG base payment rate in effect for the base period, as described in 89 Ill. Adm. Code 148.25(g)(2)(A), and the denominator of which is the statewide weighted average DRG base payment rate for the rate period, as described in 89 Ill. Adm. Code 148.25(g)(2)(B). For this adjustment, DRG base payment rate means the product of the PPS base rate, as described in 89 Ill. Adm. Code 149.100(c)(3), and the indirect medical education factor, as described in 89 Ill. Adm. Code 149.150(c)(3).

- c) All payments calculated under 89 Ill. Adm. Code 149.140 and 149.150(c)(1), (c)(2) and (c)(4), in effect on January 18, 1994, shall remain in effect hereafter.
- d) For hospital inpatient services rendered on or after July 1, 1995, the Department shall reimburse hospitals using the relative weighting factors and the base payment rates calculated pursuant to the methodology described in this Section, that were in effect on June 30, 1995, less the portion of such rates attributed by the Department to the cost of medical education.
- e) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 149 (DRG PPS), the changes described in this subsection (e) shall be effective January 1, 2001. Payments for hospital inpatient and outpatient services shall not exceed charges to the Department. This payment limitation shall not apply to government owned or operated hospitals or children's hospitals as defined at 89 Ill. Adm. Code 149.50(c)(3). This payment limitation shall not apply to or affect disproportionate share payments as described at 89 Ill. Adm. Code 148.120, payments for outlier costs as described at 89 Ill. Adm. Code 149.105 or payments for Medicaid High Volume Adjustments as described at 89 Ill. Adm. Code 148.290(d).
- f) Notwithstanding the provisions of 89 Ill. Adm. Code 149, payment for outlier cases pursuant to 89 Ill. Adm. Code 149.105 shall be determined by using the following factors that were in effect on June 30, 1995:
 - 1) The marginal cost factor (see 89 Ill. Adm. Code 149.5(c)(4)),
 - 2) The Metropolitan Statistical Area (MSA) wage index (see 89 Ill. Adm. Code 148.120(b)),
 - 3) The Indirect Medical Education (IME) factor (see 89 Ill. Adm. Code 148.260(a)(1)(B)(iv)),

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- 4) The cost to charge ratio (see 89 Ill. Adm. Code 149.105(c)(3)), and
- 5) Outlier Threshold
 - A) For admissions on December 3, 2001 through June 30, 2005, the cost outlier threshold (see 89 Ill. Adm. Code 149.5(c)(5)) multiplied by 1.22.
 - B) For admissions on or after July 1, 2005 through June 30, 2006, the cost outlier threshold (see 89 Ill. Adm. Code 149.5(c)(5)) multiplied by 1.40.
 - C) For admissions on or after July 1, 2006, the cost outlier threshold (see 89 Ill. Adm. Code 149.5(c)(5)) multiplied by 1.47.

(Source: Amended at 30 Ill. Reg. 18703, effective November 27, 2006)

Section 152.200 Non-DRG Reimbursement Methodologies

- a) Notwithstanding any provisions set forth in 89 Ill. Adm. Code 148, the changes described in subsection (b) of this Section will be effective January 18, 1994.
- b) All per diem payments calculated under 89 Ill. Adm. Code 148, except for those described in 89 Ill. Adm. Code 148.120, 148.160, 148.170, 148.175 and 148.290(a), (c) and (d), in effect on January 18, 1994, less the portion of such rates attributed by the Department to the cost of medical education, shall remain in effect hereafter.
- c) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 148, Hospital Services, and 89 Ill. Adm. Code 146, Subpart A, Ambulatory Surgical Treatment Centers, the changes described in this subsection (c) shall be effective January 1, 2001. Payments for hospital inpatient and outpatient services and ambulatory surgical treatment services shall not exceed charges to the Department. This payment limitation shall not apply to government owned or operated hospitals or children's hospitals as defined at 89 Ill. Adm. Code 149.50(c)(3). This payment limitation shall not apply to or affect disproportionate share payments as described at 89 Ill. Adm. Code 148.120, payments for outlier costs as described at 89 Ill. Adm. Code 148.130 or payments for Medicaid High Volume Adjustments as described at 89 Ill. Adm. Code 148.290(d).

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- d) Notwithstanding the provisions of subsections (a), (b) and (c) of this Section, payment for outlier adjustments provided for exceptionally costly stays pursuant to 89 Ill. Adm. Code 148.130 shall be determined using the following factors:
- 1) For admissions on December 3, 2001 through June 30, 2005, a factor of 0.22 in place of the factor 0.25 described at 89 Ill. Adm. Code 148.130(b)(3)(D).
 - 2) For admissions on or after July 1, 2005 through June 30, 2006, a factor of 0.20 in place of the factor 0.22 as described in subsection (d)(1) of this Section.
 - 3) For admissions on or after July 1, 2006, a factor of 0.18 in place of the factor 0.20 as described in subsection (d)(2) of this Section.

(Source: Amended at 30 Ill. Reg. 18703, effective November 27, 2006)

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- 1) Heading of the Part: Procedures Applicable to All Agencies
- 2) Code Citation: 44 Ill. Adm. Code 750
- 3) Section Numbers: 750.Appendix A Proposed Action: Amendment
- 4) Statutory Authority: Implementing Sections 2-105(A), 7-101(A), and 7-105(A) and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/2-105(A), 7-101(A) and 7-105]
- 5) Effective Date of Amendment: November 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 1, 2006; 30 Ill. Reg. 14240
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: Grammatical, punctuation or other nonsubstantive changes were made as agreed upon with JCAR.
- 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 amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: Pursuant to Section 2-105(A) of the Illinois Human Rights Act ("Act") [775 ILCS 5/2-105(A)], every party to a public contract is prohibited from discriminating based on categories identified in Section 1-102 of the Act [775 ILCS 5/1-102]. Section 750.Appendix A contains an Equal Employment Opportunity Clause that identifies the Act's protected categories, and that must be included in such contracts and subcontracts pursuant to Sections 750.10, 750.20, 750.30,

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and 750.170. The amendment adds three protected categories (sexual orientation, citizenship status, and military status) that are covered by the Illinois Human Rights Act [775 ILCS 5].

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

Brent A. Harzman
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago IL 60601

312/814-1906 or 312/263-1579 (TTY)

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENT

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER X: DEPARTMENT OF HUMAN RIGHTS

PART 750
PROCEDURES APPLICABLE TO ALL AGENCIES

SUBPART A: DEFINITIONS

Section
750.5 Definitions

SUBPART B: EQUAL OPPORTUNITY CLAUSE

Section
750.10 Clause to be Included in All Contracts
750.20 Incorporation by Operation of the Regulation
750.30 Subcontracts
750.40 Contracts or Subcontracts with Religious Entities

SUBPART C: DUTIES OF PUBLIC CONTRACTORS AND SUBCONTRACTORS

Section
750.110 General
750.120 Identification of Underutilization
750.130 Affirmative Action Plans
750.140 Information and Reports
750.150 Recruitment of Employees
750.160 Segregated Facilities
750.170 Subcontracts

SUBPART D: BIDDING AND COMPLIANCE

Section
750.210 Eligibility for Public Contracts
750.220 Construction Employee Utilization Projection
750.230 Compliance Review; Enforcement

750.APPENDIX A Equal Employment Opportunity Clause

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AUTHORITY: Implementing Sections 2-105(A), 7-101(A), and 7-105(A) and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/2-105(A), 7-101(A) and 7-105].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; codified at 8 Ill. Reg. 17889; amended at 22 Ill. Reg. 11774, effective July 1, 1998; amended at 30 Ill. Reg. 18709, effective November 20, 2006.

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Section 750.APPENDIX A Equal Employment Opportunity Clause

EQUAL EMPLOYMENT OPPORTUNITY

In the event of the contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

- 1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental handicap unrelated to ability, military status, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- 2) That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules) of minorities and women in the arearea(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- 3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental handicap unrelated to ability, military status, or an unfavorable discharge from military service.
- 4) That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the contractor's obligations under the Illinois Human Rights Act and the Department's Rules. If any such labor organization or representative fails or refuses to cooperate with the contractor in its efforts to comply with such Act and Rules, the

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contractor will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.

- 5) That it will submit reports as required by the Department's Rules, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules.
- 6) That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules.
- 7) That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

(Source: Amended at 30 Ill. Reg. 18709, effective November 20, 2006)

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- 1) Heading of the Part: Procedures of the Department of Human Rights
- 2) Code Citation: 56 Ill. Adm. Code 2520
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2520.10	Amendment
2520.350	Amendment
2520.405	Amendment
2520.430	Amendment
2520.440	Amendment
2520.550	Amendment
2520.700	Amendment
- 4) Statutory Authority: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)]
- 5) Effective Date of Amendments: November 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 1, 2006; 30 Ill. Reg. 14246
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Grammatical, punctuation or other nonsubstantive changes were made as agreed upon with JCAR.
- 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 rulemaking replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of Amendments: Pursuant to Section 7A-102(C)(4) of the Illinois Human Rights Act [775 ILCS 5/7A-102(C)(4)], a party's failure to attend a fact-finding conference without good cause may result in dismissal of the charge or default. The amendments strike the definition for "good cause" from Section 2520.10, and amend Section 2520.440 to be consistent with the "good cause" analysis under Section 2520.405. The amendment to Section 2520.405 clarifies when a respondent is required to file a verified response to an amended charge. The amendment to Section 2520.430 requires a respondent to give the Department current contact information.

Pursuant to Section 7-109.1 of the Illinois Human Rights Act [775 ILCS 5/7-109.1], the Department may administratively close those issues of a charge of unlawful discrimination which are pending in a federal or state court proceeding. The amendment to Section 2520.550 clarifies the circumstances in which the Department may vacate an administrative closure. The amendments to Sections 2520.10, 2520.350, 2520.430, and 2520.700 correct typographical errors and make stylistic changes.

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

Brent A. Harzman
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601

312/814-1906 or 312/263-1579 (TTY)

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER II: DEPARTMENT OF HUMAN RIGHTS

PART 2520

PROCEDURES OF THE DEPARTMENT OF HUMAN RIGHTS

SUBPART A: INTERPRETATIONS

Section	
2520.10	Definition of Terms
2520.20	Computation of Time
2520.30	Service of Documents
2520.40	Filing with the Department
2520.50	Separability
2520.110	Preservation of Records by Employers, Labor Organizations, Employment Agencies and Respondents

SUBPART B: CHARGE

Section	
2520.310	Time of Filing (Repealed)
2520.320	Form (Repealed)
2520.330	Contents
2520.340	Requirements for Charge (Repealed)
2520.350	Unperfected Charge
2520.360	Amendment
2520.370	Substitution and Addition of Parties (Repealed)
2520.380	Withdrawal of Charge

SUBPART C: PROCEDURE UPON CHARGE

Section	
2520.405	Verified Response to Charge
2520.410	Docketing and Service of Charge (Repealed)
2520.420	Maintenance of Records (Repealed)
2520.430	Investigation
2520.440	Fact-Finding Conference
2520.450	Administrative Closure (Repealed)
2520.460	Determination After Investigation (Repealed)
2520.470	Conciliation (Repealed)

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2520.480 Complaint (Repealed)

SUBPART D: SETTLEMENTS

Section

2520.510 Settlement
2520.520 Non-Disclosure (Repealed)
2520.530 Dismissal for Refusal to Accept Settlement Offer (Repealed)
2520.540 Non-Compliance with Settlement Terms (Repealed)

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section

2520.550 Administrative Closure
2520.560 Dismissal
2520.570 Default

SUBPART F: REQUESTS FOR REVIEW

Section

2520.573 Filing with Chief Legal Counsel
2520.575 Contents of Request for Review
2520.577 Notice by the Chief Legal Counsel
2520.580 Extensions of Time
2520.583 Reply to Request for Review and Surreply
2520.585 Additional Investigation
2520.587 Decision

SUBPART G: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

Section

2520.610 Scope and Purpose (Repealed)
2520.620 Definitions (Repealed)
2520.630 Cooperative Agreements
2520.640 Nature of Cooperative Agreements
2520.650 Training and Technical Assistance
2520.660 Promotion of Communication and Goodwill

SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

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Section

2520.700	Definitions
2520.710	Scope and Purpose
2520.720	Affirmative Action Groups
2520.730	Consideration of Additional Groups
2520.740	Definitions (Renumbered)
2520.750	Nondiscrimination (Repealed)
2520.760	Plans
2520.770	Reporting and Record-Keeping
2520.780	Equal Employment Opportunity Officers
2520.790	Complaint Process
2520.795	Compliance Reviews
2520.797	Sanctions for Noncompliance

2520.APPENDIX A	Contents of Affirmative Action Plans
2520.APPENDIX B	Value Weight Assignment Chart
2520.APPENDIX C	Contents of Layoff Reports
2520.APPENDIX D	Illinois Counties by Region

AUTHORITY: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; amended at 6 Ill. Reg. 2125, effective February 8, 1982; amended at 6 Ill. Reg. 3076, effective March 15, 1982; amended at 6 Ill. Reg. 8090, effective July 1, 1982; codified at 8 Ill. Reg. 17884; amended at 17 Ill. Reg. 15556, effective September 13, 1993; amended at 18 Ill. Reg. 16829, effective November 4, 1994; emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 5084, effective March 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6291, effective April 18, 1996; amended at 20 Ill. Reg. 10631, effective July 24, 1996; amended at 21 Ill. Reg. 14081, effective October 10, 1997; amended at 26 Ill. Reg. 17217, effective November 18, 2002; amended at 29 Ill. Reg. 804, effective December 28, 2004; amended at 30 Ill. Reg. 1343, effective January 13, 2006; amended at 30 Ill. Reg. 13403, effective July 31, 2006; amended at 30 Ill. Reg. 18715, effective November 20, 2006.

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SUBPART A: INTERPRETATIONS

Section 2520.10 Definition of Terms

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

Act – ~~shall mean~~ the Illinois Human Rights Act [775 ILCS 5].

Charge – ~~shall mean~~ an allegation of a civil rights violation filed with or initiated by the Department, and with regard to Subpart F, one filed with a local human rights agency.

Chief Legal Counsel – ~~shall mean~~ the Chief Legal Counsel of the Department or a duly authorized designee.

Commission – ~~shall mean~~ the Illinois Human Rights Commission or, where appropriate, a panel of three Commissioners.

Complainant – ~~shall mean~~ a person who files a charge or a complaint, including the Department in the case of a charge initiated by the Department.

Complaint – ~~shall mean~~ a written complaint for hearing filed with the Commission.

Days – ~~shall mean~~ calendar days.

Department – ~~shall mean~~ the Department of Human Rights.

Director – ~~shall mean~~ the Director of the Department or a duly authorized designee.

~~Good cause – as used in this Part and in Section 7A-102(C)(4) of the Act [775 ILCS 5/7A-102(C)(4)] means conditions such that a reasonable person would not attend a fact finding conference.~~

Local Agency – ~~shall mean~~ any department, commission or other instrumentality of a municipality or other political subdivision of the State of Illinois, or of two or more such political subdivisions acting jointly, which is duly established to serve purposes consistent with those of the ~~Human Rights~~ Act.

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Party – ~~shall mean~~ the complainant or respondent.

Person – ~~an entity shall have the same meaning~~ as described in Section 1-103 of the Act [775 ILCS 5/1-103].

Request for Review – ~~an appeal filed with the Chief Legal Counsel shall have the same meaning~~ as described in Sections 7-101.1 and 7-112 of the Act [725 ILCS 5/7-101.1 and 7-112].

Respondent – ~~shall mean~~ a person against whom a charge or complaint is filed.

Unlawful Discrimination – ~~shall mean~~ any form of discrimination prohibited under the Act or under a local ordinance administered by a local agency.

(Source: Amended at 30 Ill. Reg. 18715, effective November 20, 2006)

Section 2520.350 Unperfected Charge

In the event the Department receives a written statement from an individual which complies substantially with Section 2520.330 of this Part, the Department may accept and docket the statement (or a refined version of it) as an unperfected charge. The Department shall notify the complainant in writing of the elements which must be supplied. If the complainant fails or refuses to perfect the charge as specified, the charge may be dismissed pursuant to Section 2520.560 ~~off~~ this Part.

(Source: Amended at 30 Ill. Reg. 18715, effective November 20, 2006)

SUBPART C: PROCEDURE UPON CHARGE

Section 2520.405 Verified Response to Charge

- a) Pursuant to Section 7A-102(B) of the Act, within 60 days after receipt of the notice of the charge, or of a substantive amendment to a charge that includes new harms, bases or respondents pursuant to Section 2520.360(b) and (c) of this Part, respondent shall file a verified response to the allegations in the charge. Respondent shall serve a copy of the verified response on complainant or complainant's representative and shall show proof to the Department that the copy was served on complainant or complainant's representative.

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- b) Where, without good cause shown, respondent's verified response is not timely filed and/or served on complainant or complainant's representative, complainant may raise that issue before the Department. The raising of an issue of an untimely filed and/or served verified response with the Department does not relieve complainant of complainant's duty to comply with the Department's investigation.
- c) Pursuant to Section 7A-102(B) of the Act, good cause for untimely filing a verified response may include, but shall not be limited to:
 - 1) Death or sudden, serious illness of respondent or respondent's representative; or
 - 2) Death or sudden, serious illness of an immediate family member of respondent or respondent's representative; or
 - 3) Respondent filed and served a timely verified response, but the Department later determined that respondent's verified response was defective; or
 - 4) Respondent acted with due diligence and was not deliberate or contumacious and did not unwarrantedly disregard the verified response process, as supported by affidavit or other evidence; or
 - 5) Respondent's failure to timely file a verified response was due to circumstances beyond respondent's control, as supported by affidavit or other evidence.
- d) Whether good cause exists is in the sole discretion of the Department.
- e) Where respondent is responding to a notice to show cause for failing to timely file the verified response and/or timely serve a copy on complainant or complainant's representative, respondent shall include the verified response with the response to the notice to show cause and show proof that respondent has served the verified response on complainant or complainant's representative.

(Source: Amended at 30 Ill. Reg. 18715, effective November 20, 2006)

Section 2520.430 Investigation

- a) After a charge has been filed, the Department's staff shall institute an

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investigation to ascertain the facts relating to the civil rights violation as alleged in the charge and any amendments.

- b) A respondent must promptly provide the Department with a notice of any change in address or telephone number or any prolonged absence from the current address so that respondent can be located. If during the investigation a respondent refuses to cooperate, the Director may either make a finding of substantial evidence or request the Commission issue subpoenas to compel the attendance of witnesses or the production of documents.
- c) A complainant must promptly provide the Department with a notice of any change in ~~address~~addressee or telephone number or any prolonged absence from the current address so that he or she can be located. A complainant must cooperate with the Department, provide necessary information and be available for interviews and conferences upon reasonable notice or request by the Department. If a complainant cannot be located or does not respond to reasonable requests by the Department, the Department may dismiss the charge pursuant to Section 2520.560 of this Part.
- d) The Director may request the Commission issue subpoenas to compel the production of any documents and/or the attendance of witnesses at an interview conducted by the Department or at a fact-finding conference.
- e) The Department may withhold any witness statement or the identity of any witness as confidential upon the request of a party or such witness.

(Source: Amended at 30 Ill. Reg. 18715, effective November 20, 2006)

Section 2520.440 Fact-Finding Conference

- a) Notice. As part of its investigation, the Department may convene a fact-finding conference for the purpose of obtaining evidence, identifying the issues in dispute, ascertaining the positions of the parties and exploring the possibility of a negotiated settlement. Notice of the conference shall be given to all parties at least ten days prior thereto, and shall identify the individuals requested to attend on behalf of each party. These time provisions may be waived by agreement of the parties and the Department.
- b) Attorneys, Witnesses. A party may be accompanied at a fact-finding conference by his/her attorney or other representative, and by a translator if necessary. An

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attorney for a party not previously having entered an appearance must do so at the beginning of the conference. The parties may bring witnesses to the conference in addition to those whose attendance is mandated by the Department.

- c) **Conduct.** The investigator or other employee of the Department shall conduct the conference and control the proceedings. No tape recording, stenographic report or other verbatim record of the conference can be made. The investigator shall decide which witnesses shall be heard and the order in which they are heard. The investigator may exclude witnesses and other persons from the conference, except that each party and one representative and a translator shall be permitted to remain.
- d) **Dismissal or Default for Non-attendance.**
- 1) For charges filed before January 1, 1996, the failure of a party to attend the conference without good cause after due notice may result in dismissal of the charge pursuant to Section 2520.560 of this Part, in the case of a complainant, or default pursuant to Section 2520.570 of this Part, in the case of a respondent. For charges filed on or after January 1, 1996, the failure of a party to attend the conference without good cause after due notice shall result in dismissal of the charge pursuant to Section 2520.560 of this Part, in the case of a complainant, or default pursuant to Section 2520.570 of this Part, in the case of a respondent.
 - 2) A party who appears at the conference exclusively through an attorney or other representative unfamiliar with the events at issue shall be deemed to have failed to attend, unless, with respect to a respondent, it establishes that it does not employ or control any person with knowledge of the events at issue.
 - 3) Failure to Appear
 - A) Pursuant to this Section and Section 7A-102(C)(4) of the Act, good cause for failing to attend the fact-finding conference may include, but shall not be limited to:
 - iA) death or sudden, serious illness of a party scheduled to attend the fact finding conference; or
 - iiB) death or sudden, serious illness of an immediate family

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member of a party scheduled to attend the fact finding conference; or-

iii) the party acted with due diligence and was not deliberate or contumacious and did not unwarrantedly disregard the fact-finding conference process, as supported by affidavit or other evidence; or

iv) circumstances beyond the non-attending party's control, as supported by affidavit or other evidence.

B) If more than one person from a party is scheduled to attend the fact-finding conference, the inability of one person to attend shall not constitute good cause for failure of other persons to attend.

- 4) In assessing good cause, the factors which the Department may consider shall include, but shall not be limited to, whether the party has provided timely notice of its inability to attend the fact-finding conference and whether the party has complied with the Department's request for documentation of the reason for not attending the conference.
- 5) Whether good cause exists and whether a fact-finding conference is rescheduled are in the sole discretion of the Department.

(Source: Amended at 30 Ill. Reg. 18715, effective November 20, 2006)

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section 2520.550 Administrative Closure

- a) When the Department becomes aware that there is a charge filed containing some or all of the issues pending in a federal or ~~State~~ court proceeding, it may administratively close the issues of the charge ~~that~~which are being litigated and continue to process the remaining issues. The Department shall advise the parties in writing, allowing ~~15~~fifteen days for either party to state in writing why those issues of the charge should not be closed.
- b) After the Department administratively closes a charge pursuant to subsection (a) ~~above~~ or pursuant to Section 2520.380 of this Part, it shall promptly notify all parties in writing.

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- c) The Department may vacate an administrative closure only if the statutory 365-day time period plus extensions, if any, has not expired pursuant to Section 7A-102(G)(1) of the Act.

(Source: Amended at 30 Ill. Reg. 18715, effective November 20, 2006)

SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

Section 2520.700 Definitions

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

Act – the Illinois Human Rights Act [775 ILCS 5].

Affirmative Action Group – any of the groups listed in Section 2520.720 or 2520.730 of this Part.

Agency – any instrumentality or facility of the executive branch of State government, as specified in Section 2520.710 of this Part.

Central Management Services – the Department of Central Management Services or any successor agency responsible for its functions.

Chief Executive Officer – the director or other chief executive or administrator of any agency other than the Department.

Department – the Department of Human Rights.

Director – the Director of the Department or a duly authorized designee.

Disability – as used in Section 2-105(b) of the Act, a mental or physical condition (other than pregnancy), lasting six months or longer, that limits the amount or kind of work an individual can perform.

EEO – Equal Employment Opportunity.

EEO/AA – Equal Employment Opportunity/Affirmative Action.

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EEO Job Categories – the following eight categories: officials/managers; professionals; paraprofessionals; technicians; office/clerical workers; protective services workers; skilled craft workers; and service/maintenance workers.

EEO Officer – the Equal Employment Opportunity Officer, whether full or part-time, appointed by a State agency pursuant to Section 2-105(B)(4) of the Act and Section ~~2520.780~~2520.780 of this Part.

Layoff – the placement of an employee in non-paid and non-working status without prejudice, either temporarily or for an indeterminate length of time. Layoff does not include, either temporarily or indeterminately, a means or form of discipline.

Minority – those groups, or members of a group, listed in Section 2520.720 or 2520.730 of this Part, other than women and disabled persons.

Numerical Goals – the number of members of an affirmative action group that have been determined to be available to an agency for employment in each of the EEO job categories.

Petitioning Group – a chartered not-for-profit organization that is recognized by the community it purports to represent that has as its purpose fostering the interests and well being of that community.

Plan – an affirmative action plan for employment as described in Section 2520.760.

Program Goals – a set of actions established to address affirmative action or EEO problems cited in the agency's plan.

Reasonable Accommodation – as it relates to disabled employees and applicants, modification of the work site, work process and/or work schedule to enable a disabled person to perform the major functions of a specific job; however, such an accommodation cannot impose an undue hardship on the conduct of the business of the employer or labor organization.

Region – a group of adjacent counties. There are 11 regions within Illinois as identified in Appendix D of this Part.

Underutilized Category – a category in which the number of employed members

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of an affirmative action group for which numerical goals have been set does not reflect the availability of that group in the agency workforce in that EEO job category.

(Source: Amended at 30 Ill. Reg. 18715, effective November 20, 2006)

ILLINOIS RACING BOARD

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- 15) Summary and purpose of Amendments: Previously, the Board's medication rules governing the non-steroidal anti-inflammatories phenylbutazone, flunixin, and ketoprofen (NSAID) differed from the Racing Commissioners International (RCI) model rules. The model pari-mutuel rules were drafted and approved by RCI and are intended to be utilized by the entire pari-mutuel horse racing industry. The model rules, governing issues relating to the medication and post-race testing of racehorses, were recommended by the Racing Medication and Testing Consortium. To achieve uniformity in the rules, the Board is adopting the RCI model rules. This rulemaking establishes penalties for flunixin, ketoprofen, and phenylbutazone overages based on a tiered structure. In addition, the maximum threshold level for phenylbutazone is reduced from 15 micrograms to 10. The Board approved this rulemaking at its monthly meeting on May 9, 2006. Also, one anti-bacterial drug and three anti-protozoal drugs are added to the list of permitted substances. Finally, with the transfer of the laboratory drug-testing program to the Animal Forensic Testing Laboratory at the University of Illinois at Chicago, the retention and elimination samples, Section 603.140, is covered in the contractual agreement.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601
Attn: Mickey Ezzo,

312/814-5017

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 603
MEDICATION

Section

603.10	Pre-Race Saliva Tests
603.20	Racing Soundness Exam
603.30	Foreign Substances and Pharmaceutical Aids Banned
603.40	Twenty-four Hour Ban
603.50	Trainer Responsibility
603.55	Prima Facie Evidence
603.60	Permitted Use of Foreign Substances and Threshold Levels
603.70	Furosemide
603.80	Needles, Syringes and Injectables
603.90	Drugs, Chemicals and Prescription Items
603.100	Detention Barn
603.110	Test Samples
603.120	Referee Samples
603.130	Laboratory Findings and Reports
603.140	Distribution of Purses and Retention of Samples
603.150	Post Mortems
603.160	Penalties
603.170	Veterinarian's Records
603.180	Carbon Dioxide Tests

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

SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at 25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August 1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331, effective April 15, 2003; amended at 28 Ill. Reg. 1374, effective January 19, 2004; amended at 28 Ill. Reg. 4751, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 7565, effective May 11, 2004, for a maximum of 150 days; emergency expired October 7, 2004; amended at 28 Ill. Reg. 11250, effective August 1, 2004; amended at 28 Ill. Reg. 15790, effective December 1,

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2004; emergency amendment at 29 Ill. Reg. 2779, effective February 22, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5726, effective April 8, 2005; amended at 29 Ill. Reg. 12265, effective July 24, 2005; amended at 29 Ill. Reg. 14038, effective September 1, 2005; emergency amendment at 30 Ill. Reg. 14371, effective August 21, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18729, effective November 20, 2006.

Section 603.60 Permitted Use of Foreign Substances and Threshold Levels

- a) Non-Steroidal Anti-Inflammatories (NSAID): Threshold Levels
- 1) Only one non-steroidal anti-inflammatory drug (NSAID) may be present in a horse's body while it is participating in a race. The presence of more than one NSAID ~~at any test level~~ is forbidden and will result in the purse being redistributed.
 - 2) Subject to the prohibition contained in Section 603.40 (24 hour ban), the only foreign substances that now meet the criteria established in Section 603.80 are phenylbutazone (or its metabolite oxyphenylbutazone), flunixin, and ketoprofen.
 - 3) The ~~threshold~~ level of phenylbutazone shall be less than 5.0 micrograms (mcg)/milliliter (ml) of serum or plasma. The ~~threshold~~ level for oxyphenylbutazone shall be less than 5.0 mcg/ml of plasma.
 - A) Within a 365 day period, in~~In~~ the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 5.0 mcg/ml but less than ~~10.08-0~~ mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances: a fine not to exceed \$500.
 - i) first offense, minimum fine of \$250;
 - ii) second offense, minimum fine of \$500;
 - iii) third or subsequent offense, minimum fine of \$1,000 and a 15 day suspension.
 - B) Within a 365 day period, in~~In~~ the event a post-race sample from a

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horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to ~~10.08-0~~ mcg/ml ~~but less than 15.0 mcg/ml of serum or plasma~~, the trainer shall be subject to ~~the following penalties absent mitigating circumstances: a fine not to exceed \$1000 and/or a suspension not to exceed 15 days (see subsection (a)(3)(F)).~~

- ~~i) first offense, minimum fine of \$500 and the purse shall be redistributed;~~
- ~~ii) second offense, minimum fine of \$1,000, a 15 day suspension and the purse shall be redistributed;~~
- ~~iii) third or subsequent offense, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed.~~

- ~~C) In the event a post race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 15.0 mcg/ml of serum or plasma, the trainer shall be subject to a fine not to exceed \$1000 and/or a suspension not to exceed 60 days and the purse shall be redistributed (see subsection (a)(3)(F) below).~~
- ~~D) If the phenylbutazone or oxyphenylbutazone overage is due to the negligence of the veterinarian attending the horse, the veterinarian shall be subject to the same penalties as are set forth in subsections (a)(3)(A)-(D).~~
- ~~E) Penalties for violations of this Section shall be based on the following criteria:
 - ~~i) previous warnings and rulings for violations of this Section;~~
 - ~~ii) the age and experience of the violator;~~
 - ~~iii) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;~~
 - ~~iv) what action, if any, was taken to avoid the violation;~~~~

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- v) ~~the purse of the race.~~
- 4) The ~~threshold test~~ level of flunixin shall be less than 20.0 ng/ml of serum or plasma and the threshold level of ketoprofen shall be less than 10.0 ng/ml of serum or plasma. In the event a post-race sample from a horse contains an amount of:-
- A) flunixin greater than or equal to 20.0 ng/ml but less than 100.0 ng/ml or ketoprofen greater than or equal to 10.0 ng/ml but less than 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:
- i) first offense, minimum fine of \$250;
- ii) second offense, minimum fine of \$500;
- iii) third or subsequent offense, minimum fine of \$1,000 and a 15 day suspension.
- B) flunixin greater than or equal to 100.0 ng/ml or ketoprofen greater than or equal to 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:
- i) first offense, minimum fine of \$500 and the purse shall be redistributed;
- ii) second offense, minimum fine of \$1,000, a 15 day suspension and the purse shall be redistributed;
- iii) third or subsequent offense, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed.
- 5) ~~The test level of ketoprofen shall be less than 10.0 ng/ml of serum or plasma.~~
- 5) If the phenylbutazone, oxyphenylbutazone, flunixin or ketoprofen overage is due to the negligence of the veterinarian attending the horse, the

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veterinarian shall be subject to the same penalties as are set forth in subsections (a)(3)(A) and (B) and (a)(4)(A) and (B).

- 6) To help horsemen determine the test levels of phenylbutazone, oxyphenylbutazone, flunixin, and ketoprofen, the Board laboratory will test, for the actual cost of processing the sample, all equine serum or plasma samples submitted to it that are accompanied by an affidavit indicating time, method, and route of administration.

- 7) Penalties for violations of this Section shall be based on the following criteria:

A) previous warnings and rulings for violations of this Section;

B) the age and experience of the violator;

C) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;

D) what action, if any, was taken to avoid the violation;

E) the purse of the race.

- b) The following foreign substances may be administered externally to a horse entered to a race: Leg paints and liniment which do not contain any "caine" derivatives, pharmacodynamic and/or chemotherapeutic agents, and which can be applied topically without penetrating the skin.

- c) Subject to the prohibition contained in Section 603.40 (24-hour ban), the following foreign substances, commonly referred to as anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drugs, may be present in the body of a horse participating in a race.

- 1) Anti-Bacterials

Amikacin
Ampicillin
Ampicillin sodium
Azolsulfamide
Chloramphenicol

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Doxycycline
[Enrofloxacin \(Baytril\)](#)
Erythromycin sulfate
Gentamicin sulfate
Kanamycin sulfate
Methenamine
Levamisole (tetramisole)
Metronidazole
Neomycin sulfate
Nitrofurantoin
Oxytetracycline
Penicillin G. Benzathine
Penicillin G. Potassium
Sulfadimethozine
Sulfadimethoxine
Sulfamethoxazole
Sulfamethanidazole
Sulfapyridine
Sulfathiazole
Tetracycline
Trimethoprim

2) Anti-Fungals

Amphotericin B
Griseofulvin
Neomycin Undecylenate
Nystatin

3) [Anti-Protozoals](#)

[Nitazoxanide \(Navigator\)](#)
[Ponazuril \(Marquis\)](#)
[Pyrimethamine \(Daraprim\)](#)

43) Anti-Ulcers

Cimetidine (Tagamet)
Omeprazole (Prilosec or GastroGard)
Ranitidine (Zantac)

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- d) This listing of anti-bacterial, anti-fungal, [anti-protozoal](#) and anti-ulcer drugs is all inclusive and shall not include any other anti-bacterial, anti-fungal, [anti-protozoal](#) or anti-ulcer drug.
- e) A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when threshold levels and guidelines for its use have been approved by the Board and this Part has been duly amended. The Board shall give due consideration to threshold levels and guidelines that have been established by the Quality Assurance Program Committee of the Association of Racing Commissioners International when making additions to the permitted list.

(Source: Amended at 30 Ill. Reg. 18729, effective November 20, 2006)

Section 603.140 Distribution of Purses ~~and Retention of Samples~~

- a) The Board recognizes that occasionally post-race specimens do not reach the laboratory within 72 hours nor can all samples be thoroughly analyzed within 72 hours. However, as a convenience to horsemen, all purse money shall be distributed no later than 72 hours after a race, unless the laboratory has issued a report to the stewards pursuant to these rules.
- b) The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no foreign substance has been administered in violation of these rules to the horse winning such purse money.
- c) Upon receipt of a positive laboratory report, the stewards or the Executive Director of the Board shall immediately direct that no purse money shall be awarded to the horse in question pending a final determination by the stewards or the Board of the accuracy of the laboratory's report. The stewards or the Executive Director of the Board shall notify the owner, trainer, and any other person having care or custody or control of the horse. If the purse money has been distributed, the stewards or the Executive Director shall order it returned pending determination of the accuracy of the laboratory's report. The stewards or the Executive Director of the Board shall proceed to conduct an inquiry or the Board shall conduct an inquiry or hearing.
- d) If the report of a laboratory is not contested or if the stewards or the Board determine that the laboratory report is accurate, all purse money won by the horse in the race in question shall be forfeited and redistributed among the remaining

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horses according to their order of finish. No such forfeiture and redistribution shall affect the distribution of pari-mutuel pools.

- e) If no positive laboratory report has been issued to the stewards or the Board within 60 days after the date of a race, the owner of a horse shall become legally entitled to the money in the purse and it shall be conclusively presumed that the conditions precedent to such entitlement have been met. Provided, however, positive laboratory reports issued more than 60 days after the date of a race may be considered by the stewards or the Board as evidence of a rule violation under Sections 603.50, 603.60, or 603.70.
- f) If a positive laboratory report has been issued, whatever remains of that particular test sample shall be retained until all legal proceedings have been concluded.
- g) ~~All samples shall be retained by the laboratory for the maximum period permitted by available storage facilities. No samples may be destroyed when storage facilities become unavailable except upon approval by a majority of the members of the Board.~~

(Source: Amended at 30 Ill. Reg. 18729, effective November 20, 2006)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.2430 Adopted Action:
New Section
- 4) Statutory Authority: 35 ILCS 5/203
- 5) Effective Date of Amendment: November 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 30 Ill. Reg. 11514; July 7, 2006
- 10) Has JCAR issued a Statement of Objection to this amendment? 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 agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This rulemaking implements the provisions in Public Act 93-840 disallowing deductions for interest and intangible expenses incurred in transactions between the taxpayer and a person who would be included in the same unitary business group with the taxpayer if that person conducted more than 20% of its business activities within the United States.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Paul Caselton

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Deputy General Counsel - Income Tax
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-7055

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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)
100.2185 Film Production Services Credit (IITA 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
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 212)

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

Section

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NOTICE OF ADOPTED AMENDMENT

- 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
- 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

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- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 Companies
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100.9900 Tax Shelter Voluntary Compliance Program

100.APPENDIX A Business Income Of Persons Other Than Residents
100.TABLE A Example of Unitary Business Apportionment
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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.

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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 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; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at

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28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006.

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

Section 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 Companies

- a) For taxable years ending on or after December 31, 2004, IITA Section 203 (as amended by Public Act 93-0840) requires a taxpayer, in computing base income, to add back deductions allowed in computing federal taxable income or adjusted gross income for interest expenses and intangible expenses incurred in transactions with a person who would be a member of a unitary business group with the taxpayer, if not for the 80-20 test. Public Act 93-0840 also amended IITA Section 203 to allow subtraction modifications that would insure that the addition modifications do not result in double taxation, and to provide exceptions in instances in which requiring the addition modifications would not be appropriate.
- b) Definitions
- 1) Dividend Included in Base Income. "Dividend" means any item defined as a dividend under 26 USC 316 and any other item of income characterized or treated as a dividend under the Internal Revenue Code, and includes any item included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code. (IITA Section 203(a)(2)(D-17) and (D-18), (b)(2)(E-12) and (E-13), (c)(2)(G-12) and (G-13), and (d)(2)(D-7) and (D-8)) A dividend is included in base income of a taxpayer only to the extent the dividend is neither deducted in computing the federal taxable or adjusted gross income of the taxpayer nor subtracted

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from federal taxable income or adjusted gross income under IITA Section 203.

- 2) Foreign Person. A "foreign person" is any person who would be included in a unitary business group with the taxpayer if not for the fact that 80% or more of that person's business activities are conducted outside the United States. (IITA Section 1501(a)(30))
- 3) Interest. "Interest" means "compensation for the use or forbearance of money". (See Deputy v. du Pont, 308 U.S. 488, 498 (1940).) Interest includes the amortization of any discount at which an obligation is purchased and is net of the amortization of any premium at which an obligation is purchased.
- 4) Intangible Expense. "Intangible expense" includes *expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; losses incurred, directly or indirectly, from factoring transactions or discounting transactions; royalty, patent, technical, and copyright fees; licensing fees; and other similar expenses and costs.* (IITA Section 203(a)(2)(D-18), (b)(2)(E-13), (c)(2)(G-13) and (d)(2)(D-8))
- 5) Intangible Income. "Intangible income" means the income received or accrued by a person from a transaction that generates intangible expense for the other party to the transaction.
- 6) Intangible Property. "Intangible property" includes *patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.* (IITA Section 203(a)(2)(D-18), (b)(2)(E-13), (c)(2)(G-13) and (d)(2)(D-8))
- 7) Related Party. "Related parties" means persons disallowed a deduction for losses by *section 267(b), (c) and (f)* of the Internal Revenue Code, as well as a partner and its partnership and each of the other partners in that partnership.

c) Addition Modifications

- 1) Interest. Except as otherwise provided in this subsection (c)(1), every taxpayer must add back to its base income any deduction otherwise

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allowed in the taxable year for interest paid to a foreign person, to the extent the interest exceeds the amount of dividends received from the foreign person by the taxpayer and included in base income for the same taxable year. (IITA Section 203(a)(2)(D-17), (b)(2)(E-12), (c)(2)(G-12), and (d)(2)(D-7)) This addition modification shall not apply to an item of interest expense if:

- A) The foreign person is subject in a foreign country or state, other than a state that requires mandatory unitary reporting by the taxpayer and the foreign person, to a tax on or measured by net income with respect to the interest. If the foreign person is a partnership, Subchapter S corporation or trust, the foreign person is subject to a tax on or measured by net income with respect to the interest to the extent that the interest is included in the tax base of a partner, shareholder or beneficiary who is subject to a tax on or measured by net income in a foreign country or state.
- B) The taxpayer can establish, based on a preponderance of the evidence, both of the following:
- i) the foreign person, during the same taxable year, paid, accrued, or incurred the interest to a person that is not a related party; and
 - ii) the transaction giving rise to the interest expense between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and interest is paid pursuant to a contract or agreement that reflects an arms-length interest rate and terms.
- C) The taxpayer can establish, based on clear and convincing evidence, that the item of interest relates to a contract or agreement entered into at arms-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance.
- D) The taxpayer establishes by clear and convincing evidence that the adjustment would be unreasonable.

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E) The taxpayer has received permission under Section 100.3390 of this Part to use an alternative method of apportionment allowing the deduction of the item.

2) Intangible Expenses. Except as otherwise provided in this subsection (c)(2), every taxpayer must add back to its base income any deduction otherwise allowed in the taxable year for intangible expenses incurred with respect to transactions with a foreign person, to the extent the intangible expenses exceed the amount of dividends received from the foreign person by the taxpayer and included in base income for the same taxable year. If a taxpayer incurs both interest and intangible expenses with the same foreign person, any dividends received from that foreign person shall be applied first against interest under subsection (c)(1) and only the excess (if any) of the dividends over the interest expenses shall be applied against intangible expenses under this subsection (c)(2). (IITA Section 203(a)(2)(D-18), (b)(2)(E-13), (c)(2)(G-13) and (d)(2)(D-8)) This addition modification shall not apply to an item of intangible expense if:

A) The item arises from a transaction with a foreign person who is subject in a foreign country or state, other than a state that requires mandatory unitary reporting by the taxpayer and the foreign person, to a tax on or measured by net income with respect to the intangible income related to the item. If the foreign person is a partnership, Subchapter S corporation or trust, the foreign person is subject to a tax on or measured by net income with respect to the intangible income to the extent that the intangible income is included in the tax base of a partner, shareholder or beneficiary who is subject to a tax on or measured by net income in a foreign country or state.

B) The taxpayer can establish, based on a preponderance of the evidence, both of the following:

i) the foreign person during the same taxable year paid, accrued, or incurred the intangible expense to a person that is not a related party; and

ii) the transaction giving rise to the intangible expense between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax,

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and is paid pursuant to a contract or agreement that reflects arms-length terms.

C) If the taxpayer establishes, by clear and convincing evidence, that the adjustments are unreasonable.

D) The taxpayer has received permission under Section 100.3390 of this Part to use an alternative method of apportionment, allowing the deduction of the item.

d) Subtraction Modifications

1) Interest Income of a Foreign Person. If interest paid to a foreign person is added back by a taxpayer under subsection (c)(1), the foreign person is allowed a subtraction for the amount of that interest included in its base income for the taxable year, net of deductions allocable to that income. The subtraction under this subsection (d)(1) shall not exceed the amount of the corresponding addition under subsection (c)(1). (IITA Section 203(a)(2)(CC), (b)(2)(V), (c)(2)(T), and (d)(2)(Q))

2) Intangible Income of a Foreign Person. If intangible expense incurred in a transaction with a foreign person is added back by a taxpayer under subsection (c)(2), the foreign person is allowed a subtraction for the amount of the intangible income from that transaction included in its base income for the taxable year, net of deductions allocable to that income. The subtraction under this subsection (d)(2) shall not exceed the amount of the corresponding addition under subsection (c)(2). (IITA Section 203(a)(2)(CC), (b)(2)(V), (c)(2)(T), and (d)(2)(Q))

3) Interest Income from a Foreign Person. A taxpayer who receives interest income from a foreign person is allowed a subtraction for the amount of that interest income, net of deductions allocable to that income. The subtraction allowed in this subsection (d)(3) for a taxable year may not exceed the amount of the addition modification for the taxable year under subsection (c)(1) for interest paid by the taxpayer to the foreign person. (IITA Section 203(a)(2)(DD), (b)(2)(W), (c)(2)(U), and (d)(2)(R))

4) Intangible Income from a Foreign Person. A taxpayer who receives intangible income from a transaction with a foreign person is allowed a subtraction for the amount of the intangible income, net of deductions

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allocable to that income. The subtraction allowed in this subsection (d)(3) for the taxable year may not exceed the amount of the addition modification for the taxable year under subsection (c)(2) for intangible expenses incurred by the taxpayer in transactions with the foreign person. (IITA Section 203(a)(2)(EE), (b)(2)(X), (c)(2)(V), and (d)(2)(S))

- e) Unitary Business Groups. The provisions of this Section apply both to persons who are members of a unitary business group and to persons who are not members of a unitary business group because of the application of the 80-20 rule or of the prohibition in IITA Section 1501(a)(27) against including in a single unitary business group taxpayers using different apportionment formulas under IITA Section 304(a) through (d). In applying the provisions of this Section in the case of a unitary business group, any reference to the "taxpayer" in this Section shall be deemed to refer to the unitary business group.

(Source: Added at 30 Ill. Reg. 18739, effective November 20, 2006)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Monetary Award Program Plus (MAP Plus)
- 2) Code Citation: 23 Ill. Adm. Code 2734
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2734.10	New Section
2734.20	New Section
2734.30	New Section
2734.40	New Section
- 4) Statutory Authority: Implementing Section 39 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/39 and 20(f)]
- 5) Effective Date of Rules: December 1, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of these adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: proposed August 11, 2006; 30 Ill. Reg. 13312 and corrected August 25, 2006; 30 Ill. Reg. 14164 to change the Part number from part 2742 to Part 2734
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposed 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part is adopted to reflect the statutory changes contained in Public Act 94-1056, which created this new program. These adopted rules govern the administration of the new Monetary Award Program Plus (MAP

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Plus). The rulemaking sets forth the applicant eligibility requirements, program procedures and institutional procedures.

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

Chris Peterson
Chief Program Officer
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 2109
email: cpeterson@isac.org

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2734

MONETARY AWARD PROGRAM PLUS (MAP PLUS)

Section

2734.10	Summary and Purpose
2734.20	Applicant Eligibility
2734.30	Program Procedures
2734.40	Institutional Procedures

AUTHORITY: Implementing Section 39 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/39 and 20(f)].

SOURCE: Adopted at 30 Ill. Reg. 18756, effective December 1, 2006.

Section 2734.10 Summary and Purpose

- a) The Monetary Award Program Plus (MAP Plus) provides grant assistance when students do not receive a MAP grant and to students whose families' adjusted gross incomes are less than \$200,000 in the applicable tax year. Students must be enrolled at an Illinois institution of higher learning approved to participate in the Monetary Award Program in order to receive the grant (23 Ill. Adm. Code 2735).
- b) This Part governs the Monetary Award Program Plus. Additional rules and definitions are contained in General Provisions, 23 Ill. Adm. Code 2700.

Section 2734.20 Applicant Eligibility

- a) A qualified applicant shall be:
 - 1) a citizen of the United States or eligible noncitizen;
 - 2) a resident of Illinois;
 - 3) enrolled at least half-time in a degree or certificate program (34 CFR 668.8) at the sophomore, junior, or senior class level as determined by the institution;

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- 4) enrolled at a MAP eligible institution;
 - 5) a non-recipient of a MAP grant for any term during the regular school year for which this grant is made available to students;
 - 6) a member of a family with an adjusted gross income of less than \$200,000 as listed on the Free Application for Federal Student Aid (FAFSA) for the applicable tax year; and
 - 7) maintaining satisfactory academic progress as determined by the institution.
- b) Eligibility is restricted to undergraduate students.
- 1) MAP Plus recipients must not have received a baccalaureate degree.
 - 2) Graduate students are not eligible for MAP Plus assistance. For purposes of this Part, an institution of higher learning shall classify as a "graduate student" any student who:
 - A) is enrolled in an academic program or course above the baccalaureate level that leads to any degree above the baccalaureate level; and
 - B) is not eligible to receive federal financial assistance (34 CFR 674.2, 675.2, 676.2) as an undergraduate student; and
 - C) has completed the equivalent of at least three years of full-time postsecondary study, either prior to entrance into the academic program or as part of the academic program itself.

Section 2734.30 Program Procedures

- a) An applicant applies for a MAP Plus grant by using the form that the United States Department of Education (ED) designates as an application form for federal student financial aid. (See Section 483 of the Higher Education Act of 1965, as amended (20 USC 1070a).)
 - 1) An applicant, spouse and/or parents of the applicant, as applicable, are required to submit financial information on the application regarding income, asset value and non-taxable income (e.g., Temporary Assistance

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for Needy Families, public aid, veterans' or Social Security benefits). This information shall be kept confidential.

- 2) A recipient must report to the institution all additional gift assistance, such as tuition waivers and scholarships.
 - 3) An applicant must file his/her application by the MAP Plus deadline date established by ISAC.
- b) The application must be complete at the time the grant is awarded.
 - c) MAP Plus awards are applicable only toward tuition and mandatory fees.
 - d) The maximum MAP Plus grant available to a qualified applicant is \$500 per year.
 - e) If a recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal period, the recipient shall receive MAP Plus funds to pay for tuition and mandatory fee costs incurred.
 - f) MAP Plus grant payment is subject to the availability of funds and by the amounts appropriated to ISAC by the General Assembly. If funds are insufficient to pay all claims, grants will be awarded according to the date the completed applications were received, until funds have been expended.
 - g) It is the responsibility of MAP Plus recipients to gain admission to approved Illinois institutions of higher learning and institutions are not obligated to admit MAP Plus recipients. Illinois institutions of higher learning approved for participation in the Monetary Award Program are eligible to participate in MAP Plus.
 - h) If a recipient's academic program involves out-of-state and/or foreign study, enrollment must be in accordance with subsection (d) and the following provisions:
 - 1) The recipient must be enrolled at the ISAC-approved institution of higher learning, and the out-of-state/foreign study must be applicable to the student's degree or certificate program at the student's institution of record.
 - 2) The ISAC-approved institution of higher learning must record each semester/quarter in which the funds were or are to be used.

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- 3) An institution shall not request MAP Plus assistance for more than one regular school year for any one qualified applicant enrolled on at least a half-time basis.
- i) The MAP Plus grant shall not pay for audit courses, credit-by-examination and/or life experience, or noncredit course offerings (except qualifying remedial courses). Such course work cannot be used to meet the half-time requirement. Remedial courses shall be eligible for MAP Plus payment provided the student has been accepted into an eligible degree/certificate program and is taking the remedial courses as a part of that program. Payment shall not be made for more than the equivalent of one year of remedial course work (i.e., 30 semester hours or 45 quarter hours). Repeat courses are eligible for MAP Plus payment.

Section 2734.40 Institutional Procedures

- a) The MAP Plus grant must not exceed tuition and mandatory fees minus State and federal gift assistance that is restricted to paying tuition and mandatory fees.
- b) The institution of record shall submit claims for MAP Plus eligible students. By submitting a payment request, an institution is certifying that the qualified applicants meet the requirements of Section 2734.20, Applicant Eligibility.
- c) MAP Plus grants are paid directly to the institution of record in two disbursements consisting of payments in an amount not to exceed \$250 each term.
- d) For any institution of higher learning that has concurrent registration opportunities, the following policy pertains:
 - 1) The recipient must indicate his/her institution of record on the MAP Plus application.
 - 2) The payment of the term award by ISAC will require the institution of record to receive MAP Plus payment on behalf of any other institutions and the institution of record shall distribute the appropriate share of the award to the other institutions. Payment by ISAC will not be made to more than one institution.
 - 3) Concurrent registration is limited to ISAC-approved institutions of higher learning.

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- e) If an Illinois institution operates an out-of-state center, residents of Illinois enrolled in classes at the out-of-state center may receive MAP Plus benefits in accordance with Section 2734.30(h).
- f) If a recipient's enrollment changes for the following term, the institution shall only claim payment for the term for which the amount of tuition and mandatory fee expenses were incurred.
- g) MAP Plus grants are paid directly to the approved institution of record that certifies to ISAC that the applicant is an eligible recipient. ISAC will establish priority claim dates for the submission of payment requests and inform the institution of the required priority dates.
- h) Institutional Processing of Payments
 - 1) Within 30 days after and including the date of receiving payment of any MAP Plus funds claimed, the institution shall credit the MAP Plus funds against the recipients' tuition and mandatory fee charges for the appropriate terms.
 - 2) Institutions are required to reconcile payments received through MAP Plus and, as applicable, submit all necessary corrections to student records on a timely basis. Any payments received by the institution that are determined in the reconciliation to be refunds payable to ISAC are to be processed and returned to ISAC no later than 60 days following the end of the academic term unless ISAC has already deducted outstanding refunds from institutional payment requests during the applicable fiscal year. Billing errors, retroactive withdrawals and other miscellaneous reasons may cause refunds. Refunds showing as owed to ISAC must be remitted within 30 days after the end of the institution's regular school year. Should the payment arrive after the end of the regular school year, the institution will have 60 days following receipt of payment to complete the reconciliation process and return any refunds due.
 - 3) To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests must be received by ISAC no later than July 1.
 - 4) Payment requests received after that date for the regular school year will be processed as time and available funds permit; however, final action may

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require institutions to go to the Illinois Court of Claims to obtain payment for approved claims. (See the Court of Claims Act [705 ILCS 505].)

ILLINOIS STUDENT ASSISTANCE COMMISSION

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- 1) Heading of the Part: Forensic Science Grant Program
- 2) Code Citation: 23 Ill. Adm. Code 2742
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2742.10	New Section
2742.20	New Section
2742.30	New Section
2742.40	New Section
- 4) Statutory Authority: Implementing Section 65.80 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/65.80 and 20(f)]
- 5) Effective Date of Rules: December 1, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of these adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 10) Notice of Proposal Published in Illinois Register: August 11, 2006; 30 Ill. Reg. 13320
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposed and final version: Most of the changes made were nonsubstantive in nature. In Section 2742.10, language was added to more clearly identify that the specific specialty shortage areas identified by the Illinois State Police are the processing of latent fingerprints and DNA testing.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part is adopted to reflect the statutory changes contained in Public Act 94-1020, which created this new program. These

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adopted rules govern the administration of the new Forensic Science Grant Program. The rulemaking sets forth the applicant eligibility requirements, program procedures and institutional procedures.

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

Chris Peterson
Chief Program Officer
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 2109
email: cpeterson@isac.org

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSIONPART 2742
FORENSIC SCIENCE GRANT PROGRAM

Section

2742.10	Summary and Purpose
2742.20	Applicant Eligibility
2742.30	Program Procedures
2742.40	Institutional Procedures

AUTHORITY: Implementing Section 65.80 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/65.80 and 20(f)].

SOURCE: Adopted at 30 Ill. Reg. 18764, effective December 1, 2006.

Section 2742.10 Summary and Purpose

- a) The Forensic Science Grant Program encourages graduate students to enter the field of forensic science and continue their careers as forensic scientists with the Illinois State Police (ISP). The career opportunity will take place in one of the specialty areas of forensic science that is considered a shortage specialty area. For purposes of this Part, ISP has determined that specialty shortage area means that forensic scientists are needed for the processing and analysis of latent fingerprints and forensic biology/DNA testing.
- b) This Part governs the Forensic Science Grant Program. Additional rules and definitions are contained in General Provisions, 23 Ill. Adm. Code 2700.

Section 2742.20 Applicant Eligibility

- a) A qualified applicant shall be:
 - 1) a United States citizen or eligible noncitizen;
 - 2) a resident of Illinois or will be residing in Illinois for other than a temporary or transitory purpose upon completion of the forensic science program;

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- 3) enrolled on a full-time basis at an Illinois institution of higher learning in a minimum one-year program that combines graduate education with training in a specific forensic discipline in a manner equivalent to the Illinois State Police's new examiner training program so as to prepare him or her to do casework; and
- 4) in compliance with all of the evaluation criteria required by the ISP for employment.

Section 2742.30 Program Procedures

- a) A completed ISAC application/ISP Employment Agreement and promissory note for the Forensic Science Grant Program must be received preceding the academic year for which the grant is being requested in order to receive priority consideration for an award.
- b) If, in any given year, the number of qualified applicants exceeds the amount of funds available, priority will be given according to the following criteria:
 - 1) students demonstrating exceptional merit according to their cumulative grade point averages, prioritized from the highest to the lowest. All grade point averages will be converted to a four-point scale; and
 - 2) grant recipients under the Forensic Science Grant Program during the previous academic year shall receive first priority consideration provided the student:
 - A) maintains his or her status as a qualified applicant;
 - B) maintains satisfactory academic progress as determined by the institution; and
 - C) submits all necessary documentation on a timely basis.
- c) If all other criteria are equal, priority consideration will be given to the applicant who submitted his or her completed application on the earliest date.
- d) A recipient may receive the equivalent of two academic years of award assistance under this Part.

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- e) Awards are applicable for full-time study during any academic year.
- f) The total number of grants in a given fiscal year is contingent upon available funding.
- g) Each qualified applicant who is selected to receive a Forensic Science Grant shall be notified.
- h) This forensic Science Grant information shall be available to the public with the application packet or online at ISAC's website.
- i) Prior to receiving grant assistance for any academic year, the qualified applicant must sign an ISP Employment Agreement/Promissory Note that is submitted to ISAC. The ISP Employment Agreement/Promissory Note shall include the following stipulations:
 - 1) the recipient pledges to be employed in Illinois by the ISP as a forensic scientist in a designated specialty area under the guidelines of the ISP for a period of not less than four years as required for receiving an award under this Part;
 - 2) the recipient shall begin employment with the ISP within one year following termination of the academic program (unless circumstances prohibit ISP from hiring program participants), and shall maintain employment on a continuous basis for the required period of four years;
 - 3) if the recipient does not fulfill the requirement to work as a forensic scientist in a designated specialty area for the ISP, the grant converts to a loan and the recipient must repay the entire amount of the grant, prorated according to the fraction of the obligation not completed, plus interest at a rate of 5% and, if applicable, reasonable collection fees;
 - 4) the recipient agrees to provide ISAC with evidence of compliance with program requirements; and
 - 5) the recipient promises to use the proceeds awarded for educational expenses related to his or her education and any cost deemed necessary by the ISP and or the institution of higher learning to complete training.

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- j) If deemed necessary by the ISP, the recipient shall sign an affidavit regarding participation and conduct.
- k) A recipient of the grant under this Part shall not be in violation of the agreement entered into pursuant to subsection (i) during periods in which the recipient:
 - 1) serves, for not more than three years, as a member of the United States Armed Forces;
 - 2) is enrolled full-time in a specific forensic discipline equivalent to the ISP's new examiner training program at an approved institution. This must be for one continuous period of time, not to exceed one year, following graduation;
 - 3) is temporarily totally disabled for not more than three years, as established by the sworn affidavit of a qualified physician; or
 - 4) meets all required qualifications and is actively seeking but unable to be employed as a forensic scientist with the ISP for one continuous period and provides evidence of that fact.
- l) If a recipient is required to repay any portion of the grant, the repayment period shall be completed within ten years after the grant converts to a loan. This ten-year period may be extended if the recipient:
 - 1) serves, for not more than three years, as a member of the United States Armed Forces;
 - 2) is enrolled full-time in a graduate or doctoral program at an approved institution for one continuous period of time, not to exceed one year, following graduation;
 - 3) is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a licensed physician; or
 - 4) is seeking but unable to find full-time employment for one continuous period not to exceed two years and provides evidence of that fact.
- m) During the time a recipient qualifies for any of the extensions listed in subsection (l), he or she shall not be required to make payments and interest shall not accrue.

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- n) A recipient shall enter repayment status on the earliest of the following dates:
 - 1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to certification as a forensic scientist;
 - 2) the date the recipient informs ISAC that she or he does not plan to fulfill the contractual agreement; or
 - 3) the day after the latest date upon which the recipient must have begun service with the ISP as a forensic scientist after termination of the education for which the grant was awarded.
- o) A recipient shall not be required to repay the amount of the proceeds received if she or he becomes permanently totally disabled, as established by the sworn affidavit of a licensed physician (see, e.g., 34 CFR 653.42(k)(1)), or if his or her representative provides ISAC with a certified death certificate.

Section 2742.40 Institutional Procedures

- a) The institution shall submit payment requests to ISAC. By submitting a payment request, an institution is certifying that the qualified applicants meet the requirements of Section 2742.20, Applicant Eligibility.
- b) Funds shall be remitted by ISAC annually to participating institutions on behalf of the recipients.
- c) The total amount awarded to a qualified applicant in a given academic year shall not exceed \$30,000, to cover those expenses related to the forensic science program in which he or she is enrolled.
- d) Upon receipt of the funds, the institution shall verify the recipient's enrollment status for the term for which the award was intended. If enrolled, the institution may credit the funds to the recipient's account for expenses due and payable. The balance of the disbursement shall be released to the recipient.

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- 1) Heading of the Part: Nurse Educator Scholarship Program
- 2) Code Citation: 23 Ill. Adm. Code 2759
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
2759.10	New Section
2759.20	New Section
2759.30	New Section
2759.40	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 5 and 15 of the Nurse Educator Assistance Act [110 ILCS 967/5 and 15]
- 5) Effective Date of Rules: December 1, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of these adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 11) Notice of Proposal Published in Illinois Register: proposed August 11, 2006; 30 Ill. Reg. 13327 and corrected August 25, 2006; 30 Ill. Reg. 14165 to change the Part number from Part 2766 to Part 2759
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposed 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part is adopted to reflect the statutory changes contained in Public Act 94-1020, which created this new program. These adopted rules govern the administration of the new Nurse Educator Scholarship Program.

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The rulemaking sets forth the applicant eligibility requirements, program procedures and institutional procedures.

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

Chris Peterson
Chief Program Officer
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 2109
email: cpeterson@isac.org

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2759

NURSE EDUCATOR SCHOLARSHIP PROGRAM

Section

2759.10	Summary and Purpose
2759.20	Applicant Eligibility
2759.30	Program Procedures
2759.40	Institutional Procedures

AUTHORITY: Implementing and authorized by Sections 5 and 15 of the Nurse Educator Assistance Act [110 ILCS 967/5 and 15].

SOURCE: Adopted at 30 Ill. Reg. 18771, effective December 1, 2006 .

Section 2759.10 Summary and Purpose

- a) The Nurse Educator Scholarship Program is designed to attract capable and promising students to the nursing educator profession. Increasing the number of instructors will allow more students to be educated in the field of nursing. This scholarship also provides an opportunity for individuals interested in making a career change to the nurse educator profession.
- b) This Part governs the Nurse Educator Scholarship Program. Additional rules and definitions are contained in General Provisions, 23 Ill. Adm. Code 2700.

Section 2759.20 Applicant Eligibility

- a) A qualified applicant shall be:
 - 1) a resident of Illinois;
 - 2) a United States citizen or eligible noncitizen;
 - 3) a recipient of at least a bachelor's degree;

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- 4) enrolled or accepted for enrollment on at least a half-time basis in an approved program of professional or practical nursing education at the graduate level at an Illinois institution of higher learning; and
- 5) maintaining satisfactory academic progress as determined by the institution.

Section 2759.30 Program Procedures

- a) All applicants must complete and file the form the U.S. Department of Education (ED) designates as an application/promissory note for federal student financial aid for the purpose of determining the Expected Family Contribution (EFC), which is used as a selection criterion for this award. (See Section 483 of the Higher Education Act of 1965, as amended (20 USC 1070a).)
- b) A completed ISAC application for the Nurse Educator Scholarship Program must be postmarked on or before March 1 immediately preceding the academic year for which the scholarship is being requested, in order to receive priority consideration for an award.
 - 1) Applications are available at qualified institutions of higher learning, ISAC's web site, and ISAC's Springfield, Deerfield and Chicago offices.
 - 2) ISAC will make renewal applications available to all qualified students who were awarded assistance under this Part during the preceding year.
 - 3) If the application is incomplete, ISAC will notify the appropriate party. The applicant will then have an opportunity to furnish the missing information. However, the application will only be considered for processing as of the date when the application is complete and received at ISAC's Deerfield office.
- c) No recipient may receive scholarship assistance under this program for more than the equivalent of 8 semesters/16 quarters of full-time enrollment.
- d) ISAC shall select the recipients from among qualified applicants who filed timely applications based on a combination of the following criteria:
 - 1) Cumulative grade point averages will be prioritized from highest to lowest. All grade point averages will be converted to a four-point scale; and

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- 2) Expected Family Contribution (EFC), from the lowest to the highest.
- e) Recipients of assistance under this Part during the previous academic year shall receive first priority consideration provided the student:
- 1) Maintains his or her status as a qualified applicant, as outlined in Section 2766.20(a) of this Part, Applicant Eligibility.
 - 2) Maintains satisfactory academic progress as determined by the institution.
 - 3) Has submitted an application on a timely basis.
- f) If all other criteria are equal, priority consideration will be given to the qualified applicant who submitted his or her completed application to ISAC on the earliest date.
- g) Prior to receiving scholarship assistance under this Part, the qualified applicant must sign a Teaching Agreement/Promissory Note that is submitted to ISAC. The Teaching Agreement/Promissory Note shall include the following stipulations:
- 1) the recipient pledges to work as an educator in an approved program of professional nursing education in Illinois or an approved program of practical nursing education in Illinois, as certified by an authorized individual at the approved Illinois institution, for a period of not less than five years;
 - 2) the recipient shall begin teaching as a nurse educator within one year following the termination of the program for which the recipient received assistance under this Part, and shall teach on a continuous basis for the required five year period of time;
 - 3) the teaching requirement will be fulfilled in an approved program of professional nursing education in Illinois or an approved program of practical nursing education at an approved institution in Illinois that prepares students for careers as practical or professional nurses;
 - 4) if the teaching requirement is not fulfilled, the proceeds received convert to a loan and the recipient must repay the entire amount prorated according to the fraction of the teaching obligation not completed, plus

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interest at a rate equal to five percent and, if applicable, reasonable collection fees;

- 5) the recipient agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.); and
 - 6) the recipient promises to use all proceeds received for educational expenses.
- h) A recipient of funds awarded under this Part shall not be in violation of the agreement entered into pursuant to subsection (g) during periods in which the recipient:
- 1) serves, for not more than three years, as a member of the United States Armed Forces;
 - 2) is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a licensed physician;
 - 3) is actively seeking but unable to find employment as a nurse educator at an approved Illinois institution for one continuous period not to exceed two years and is able to provide evidence of that fact; or
 - 4) is taking additional courses, on at least a half-time basis, needed to obtain certification in a nursing educator program in Illinois.
- i) If a recipient is required to repay any portion of the proceeds received, the repayment period shall be completed within ten years after the scholarship converts to a loan. This ten-year period may be extended if the recipient:
- 1) serves, for not more than three years, as a member of the United States Armed Forces;
 - 2) is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a licensed physician;
 - 3) is seeking and unable to find full-time employment, for one continuous period not to exceed two years, and is able to provide evidence of that fact;

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- 4) withdraws from a course of study leading to certification as a nursing educator, but is enrolled full-time in another academic discipline not to exceed three years; or
 - 5) is pursuing a graduate course of study and is enrolled on a full-time basis for one continuous period of time not to exceed three years.
- j) During the time a recipient qualifies for any of the extensions listed in subsection (i), he or she shall not be required to make payments and interest shall not accrue.
- k) A recipient shall enter repayment status on the earliest of the following dates:
- 1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to certification as a nursing educator, but not before six months have elapsed after the cessation of at least half-time enrollment in such a course of study;
 - 2) the date the recipient informs ISAC that he or she does not plan to fulfill the teaching obligation; or
 - 3) the day after the latest date upon which the recipient must have begun teaching after completing the nurse educator program for which the funds were awarded.
- l) A recipient shall not be required to repay the amount of the proceeds received if he or she becomes permanently totally disabled as established by the sworn affidavit of a qualified physician (see, e.g., 34 CFR 653.42(k)(1)), or if his or her representative provides ISAC with a certified death certificate.

Section 2759.40 Institutional Procedures

- a) The institution shall submit eligibility information for qualified and certified applicants in sufficient time for ISAC to make award announcements.
- b) To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests except for summer term must be received by ISAC no later than July 1. Summer term payment requests must be received no later than July 31.
- c) ISAC shall disburse funds in two or three installments, depending on the number of terms financed by the award, except that multiple disbursements shall not be

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required in cases where the applicant's eligibility is not determined until the final term of the academic year for which the funds are being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.

- d) Funds shall be remitted by ISAC to institutions on behalf of the recipients.
- e) Upon receipt of the funds, the institution shall verify the recipient's enrollment status for the term for which the award was intended. If enrolled, the institution shall then credit the funds to the recipient's account for tuition and fees due and payable. Upon receipt of the funds, if the recipient has withdrawn from enrollment for the terms for which the award was intended, the institution shall return the amount of the payment to ISAC.
- f) Award Amount:
 - 1) Nurse educator scholarships are applicable toward tuition and fees.
 - 2) A recipient attending a public institution in Illinois shall receive a scholarship that shall not exceed the cost of tuition and fees at that institution.
 - 3) A recipient attending a private institution in Illinois may receive a scholarship sufficient to pay the cost of tuition and fees, provided the award does not exceed the maximum amount payable to a student enrolled in the most expensive comparable program of study at a public institution.
 - 4) A qualified applicant will also receive a stipend of not more than \$10,000 for full-time enrollment. The stipend will be used to cover the cost of attendance, including living expenses. Stipends for recipients enrolled less than full-time will be prorated according to the credit hours taken.
 - 5) The total amount of nurse educator assistance awarded to a qualified applicant in a given academic year, when added to the other financial aid available to the qualified applicant for that year, cannot exceed the cost of attendance.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Long Term Care Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 153
- 3) Section Number: 153.125 Emergency Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date: November 28, 2006
- 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: No
- 7) Date Filed with the Index Department: November 20, 2006
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The fiscal year 2007 budget implementation plan (Public Act 94-838) provides that facilities that are federally-defined Institutions for Mental Disease (IMD) shall receive a socio-development component rate equal to 6.6% of the nursing component rate in effect on January 1, 2006. This socio-development rate component, which will become a part of the facility's nursing component of the Medicaid rate, must be established and paid effective November 28, 2006. Public Act 94-838 also provides that the rate may be adjusted by the Department, but cannot be reduced.
- 10) Complete Description of the Subjects and Issues Involved: This emergency rulemaking provides that facilities that are federally-defined IMD shall receive a socio-development component rate equal to 6.6% of the nursing component rate that was in effect on 1/1/06. That new socio-development rate component shall then become a part of the facility's nursing component of the Medicaid rate. While this rate may be adjusted by the Department, it shall not be reduced.
- 11) Are there any other rulemakings pending on this Part? Yes
- 12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any State mandate affecting units of local government.
- 13) Information and questions regarding this emergency amendment shall be directed to:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 153

LONG TERM CARE REIMBURSEMENT CHANGES

Section

153.100 Reimbursement for Long Term Care Services

153.125 Long Term Care Facility Rate Adjustments

EMERGENCY

153.150 Quality Assurance Review (Repealed)

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

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16285, effective August 28, 1998; amended at 22 Ill. Reg. 19872, effective October 30, 1998; emergency amendment at 23 Ill. Reg. 8229, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12794, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13638, effective November 1, 1999; emergency amendment at 24 Ill. Reg. 10421, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15071, effective October 1, 2000; emergency amendment at 25 Ill. Reg. 8867, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14952, effective November 1, 2001; emergency amendment at 26 Ill. Reg. 6003, effective April 11, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 12791, effective August 9, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11087, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17817, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 11088, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18880, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 10218, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005; amended at 29 Ill. Reg. 12452, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 616, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified pursuant to Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 7817, effective April 7, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10417, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11853, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14315, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 18779, effective November 28, 2006, for a maximum of 150 days.

Section 153.125 Long Term Care Facility Rate Adjustments**EMERGENCY**

- a) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates established on July 1, 1996 shall be increased by 6.8 percent for services provided on or after January 1, 1997.
- b) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1998, for services provided on or after that date, shall be increased by three percent. For nursing facilities (SNF/ICF) only, \$1.10 shall also be added to the nursing component of the rate.
- c) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1999, for services provided on or after that date, shall include:
 - 1) an increase of 1.6 percent for SNF/ICF, ICF/MR and developmental training rates;
 - 2) an additional increase of \$3.00 per resident day for ICF/MR rates; and
 - 3) an increase of \$10.02 per person, per month for developmental training rates.
- d) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF rates shall be increased by \$4.00 per resident day for services provided on or after October 1, 1999.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

- e) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF, ICF/MR and developmental training rates shall be increased 2.5 percent per resident day for services provided on or after July 1, 2000.
- f) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2001, shall be computed using the most recent cost reports on file with the Department no later than April 1, 2000 updated for inflation to January 1, 2001.
 - 1) The Uniform Building Value shall be as defined in 89 Ill. Adm. Code 140.570(b)(10), except that, as of July 1, 2001, the definition of current year is the year 2000.
 - 2) The real estate tax bill that was due to be paid in 1999 by the nursing facility shall be used in determination of the capital component of the rate. The real estate tax component shall be removed from the capital rate if the facility's status changes so as to be exempt from assessment to pay real estate taxes.
 - 3) For rates effective July 1, 2001, only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.
 - 4) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under Section 153.125(f) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.
- g) Notwithstanding the provisions set forth in Section 153.100, intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled nursing facilities for persons under 22 years of age (SNF/Ped), shall receive an increase in rates for residential services equal to a statewide average of 7.85 percent. Residential rates taking effect March 1, 2001, for services provided on or after that date, shall include an increase of 11.01 percent to the residential program rate component and an increase of 3.33 percent to the residential support rate component, each of which shall be adjusted by the geographical area adjuster, as defined by the Department of Human Services (DHS).
- h) For developmental training services provided on or after March 1, 2001, for residents of long term care facilities, rates shall include an increase of 9.05

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

percent and rates shall be adjusted by the geographical area adjuster, as defined by DHS.

- i) Notwithstanding the provisions set forth in Section 153.100, daily rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 2.247 percent for services provided during the period beginning on April 11, 2002, and ending on June 30, 2002.
- j) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2002, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be reduced to the level of the rates in effect on April 10, 2002.
- k) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2002 will be 5.9 percent less than the rates in effect on June 30, 2002.
- l) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2003, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3.59 percent.
- m) Notwithstanding the provisions set forth in Section 153.100, developmental training rates effective on July 1, 2003, shall be increased by 4 percent.
- n) Notwithstanding the provisions set forth in Section 153.100, pending the approvals described in this subsection (n), nursing facility (SNF/ICF) rates effective July 1, 2004 shall be 3.0 percent greater than the rates in effect on June 30, 2004. The increase is contingent on approval of both the payment methodologies required under Article 5A-12 of the Public Aid Code [305 ILCS 5/5A-12] and the waiver granted under 42 CFR 433.68.
- o) Notwithstanding the provisions set forth in Section 153.100, the "Original Building Base Cost" for nursing facilities (SNF/ICF) which have been rented continuously from an unrelated party since prior to January 1, 1978, effective on July 1, 2004, shall be added to the capital rate calculation using the most recent cost reports on file with the Department no later than June 30, 2004. The "Original Building Base Cost" as defined in 89 Ill. Adm. Code 140.570 shall be

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

calculated from the original lease information that is presently on file with the Department. This original lease information will be used to capitalize the oldest available lease payment from the unrelated party lease that has been in effect since prior to January 1, 1978, and continued to be in effect on December 31, 1999. Before the lease payment is capitalized, a 15 percent portion will be removed from the oldest available lease payment for movable equipment costs. After the lease payment is capitalized, a portion of the capitalized amount will be removed for land cost. The land cost portion is 4.88 percent. The remaining amount will be the facility's building cost. The construction/acquisition year for the building will be the date the pre-1978 lease began. The allowable cost of subsequent improvements to the building will be included in the original building base cost. The original building base cost will not change due to sales or leases of the facility after January 1, 1978.

- p) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on January 1, 2005 will be 3.0 percent more than the rates in effect on December 31, 2004.
- q) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates shall be increased by the difference between a facility's per diem property, liability and malpractice insurance costs as reported in the cost report that was filed with the Department and used to establish rates effective July 1, 2001, and those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations.
- r) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on January 1, 2006 for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3 percent.
- s) Notwithstanding the provisions set forth in Section 153.100, developmental training rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), effective on January 1, 2006 shall be increased by 3 percent.
- t) Notwithstanding the provisions set forth in Section 153.100, for facilities that are federally defined as Institutions for Mental Disease (see Section 145.30), a socio-development component rate equal to 6.6% of the nursing component rate as of January 1, 2006 shall be established and paid effective November 28, 2006. This

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

rate shall become a part of the facility's nursing component of the Medicaid rate.
While this rate may be adjusted by the Department the rate shall not be reduced.

(Source: Amended by emergency rulemaking at 30 Ill. Reg. 18779, effective November 28, 2006, for a maximum of 150 days)

ELEVATOR SAFETY BOARD

NOTICE OF PUBLIC HEARING ON PROPOSED RULES

- 1) Heading of the Part: Illinois Elevator Safety Rules
- 2) Code Citation: 41 Ill. Adm. Code 1000
- 3) Register Citation to Notice of Proposed Rules: 30 Ill. Reg. 16522; October 20, 2006
- 4) Date, Time and Location of Public Hearing:

December 20, 2006 at the hour of 10:00 AM CST
Michael J. Bilandic Building
160 N. LaSalle Street, Room N-502, Fifth Floor
Chicago, Illinois 60601

312/814-6181

Facsimile: 312/814-3459

Other Pertinent Information:

Persons wishing to address the Elevator Safety Review Board will be required to complete a speaker request, available at the hearing, prior to speaking. Each individual will be allotted 5 minutes and each subsequent speaker is requested not to address a subject already addressed by another speaker.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

BOARD OF HIGHER EDUCATION

Heading of the Part: Noninstructional Capital Improvements and Community College Locally-Funded Capital Projects

Code Citation: 23 Ill. Adm. Code 1040

Section Numbers: 1040.10
1040.20
1040.22
1040.25
1040.27
1040.30

Date Originally Published in the Illinois Register: 9/1/06
30 Ill. Reg. 14184

At its meeting on 11/14/06, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that BHE be more timely in updating its rules to reflect statutory changes. The Board initiated rulemaking amending Noninstructional Capital Improvements and Community College Locally-Funded Capital Projects (23 Ill. Adm. Code 1040; 30 Ill. Reg. 14184) to, in part, implement a provision of PA 91-776 over 6 years after that statute's 6/9/00 effective date.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF INSURANCE

Heading of the Part: Medical Liability Insurance Rules and Rate Filings

Code Citation: 50 Ill. Adm. Code 929

Section Numbers: 929.30(e)

Date Originally Published in the Illinois Register: 2/10/06
30 Ill. Reg. 1702

At its meeting on 11/14/06, the Joint Committee on Administrative Rules considered the above cited rulemaking. Section 155.18(e) of the Insurance Code requires every company offering medical liability insurance in this State to offer each of its medical liability insureds the option to make premium payments in quarterly installments. In Section 929.30(e) of the Department of Financial and Professional Regulation's rulemaking titled Medical Liability Insurance Rules and Rate Filings (50 Ill. Adm. Code 929; 30 Ill. Reg. 1702), the Department waives this statutory requirement if the annual premium is \$500 or less. If the Department believes it prudent to exempt insurers from the statutory requirement in some instances, JCAR recommends that the Department seek an amendment to the Insurance Code to temper the current mandatory requirement or to get authority for the Department to waive the requirement if circumstances warrant.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

Heading of the Part: Illinois Dental Practice Act

Code Citation: 68 Ill. Adm. Code 1220

<u>Section Numbers:</u>	1220.100	1220.220	1220.350	1220.421
	1220.120	1220.240	1220.360	1220.425
	1220.140	1220.245	1220.380	1220.440
	1220.155	1220.260	1220.400	1220.441
	1220.156	1220.270	1220.405	1220.510
	1220.160	1220.310	1220.406	1220.520
	1220.170	1220.320	1220.410	1220.525
	1220.200	1220.335	1220.415	1220.560

Date Originally Published in the Illinois Register: 7/28/06
30 Ill. Reg. 12633

At its meeting on 11/14/06, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that, in the future, the Department of Financial and Professional Regulation Act more promptly to implement statutory mandates. The Department took almost 7 years to implement PA 91-138 that required development of a program to treat impaired dental professionals.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO
EMERGENCY RULEMAKING

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

Heading of the Part: Pay Plan

Code Citation: 80 Ill. Adm. Code 310

Section Numbers: 310.100

Date Originally Published in the Illinois Register: 10/20/06
30 Ill. Reg. 16626

At its meeting on 11/14/06, the Joint Committee on Administrative Rules objected to the emergency rules of the Department of Central Management Services, titled Pay Plan (80 Ill. Adm. Code 310; 30 Ill. Reg. 16626), violating Section 5-45(c) of the IAPA, which states that an agency cannot adopt the same emergency rule more than once in any 24-month period. CMS adopted an emergency rule on 7/1/06, portions of which are substantially similar to this emergency rule adopted 10/3/06.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

PARTIAL WITHDRAWAL OF FILING PROHIBITION OF PROPOSED RULEMAKING

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF FINANCIAL INSTITUTIONS

Heading of the Part: Consumer Installment Loan Act

Code Citation: 30 Ill. Adm. Code 110

Section Numbers: 110.275(a)

Date Originally Published in Illinois Register: 2/24/06
30 Ill. Reg. 2449

Date Filing Prohibition Published in Illinois Register: 7/28/06
30 Ill. Reg. 13029

Date Filing Prohibition Became Effective: 7/13/06

Date Filing Prohibition Withdrawn: 11/14/06

The Joint Committee on Administrative Rules hereby Certifies that, pursuant to Section 5-115 of the Illinois Administrative Procedure Act, the Joint Committee, at its meeting on 11/14/06, has withdrawn the prohibition against Section 110.275(a) of the Department of Financial and Professional Regulation-Division of Financial Institutions's rulemaking titled Consumer Installment Loan Act (38 Ill. Adm. Code 110). The Committee originally issued this Filing Prohibition at its 7/11/06 meeting.

The agency is no longer prohibited from proposing rulemaking involving the policy described in Section 110.275(a), as it has shown an interest in doing in its rulemaking published at 30 Ill. Reg. 15088.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

OBJECTION AND FILING PROHIBITION

DEPARTMENT OF LABOR

Heading of the Part: Six Day Week Law

Code Citation: 56 Ill. Adm. Code 220

<u>Section Numbers:</u>	220.100	220.320	220.900	220.935
	220.105	220.325	220.905	220.940
	220.125	220.400	220.910	220.1000
	220.135	220.405	220.915	220.1100
	220.145	220.800	220.920	220.1105
	220.305	220.805	220.925	
	220.315	220.810	220.930	

Date Originally Published in the Illinois Register: 11/28/05
29 Ill. Reg. 19106

At its meeting on November 14, 2006, the Joint Committee on Administrative Rules voted to object to the above proposed rulemaking and prohibit its filing with the Secretary of State. The reason for the Objection and Prohibition is as follows:

JCAR objects to and prohibits the filing of the Department of Labor's rulemaking titled Six Day Week Law (56 Ill. Adm. Code 220; 29 Ill. Reg. 19106) because Sections 220.315 and 220.220, by requiring employers to ensure that rest breaks are taken, exceed the Department's authority under Section 3.1(c) of the One Day Rest in Seven Act. Section 3.1(c) states that every hotel room attendant in Cook County shall receive a minimum of 2 15-minute paid rest breaks and a 30-minute meal period and that the employer cannot require the attendant to work during a break period. It does not say that the employee is obligated to take a break period if he or she voluntarily chooses not to do so and does not mandate that the employer force the taking of a break on an employee, as the proposed rule would do. Additionally, Section 220.810, by prohibiting the statutorily mandated 15-minute break period from being taken at the beginning or end of the workday or from being combined into a single 30-minute break, restricts employers and employees from voluntarily exercising flexibility in a manner that could be to the employee's benefit. This restriction in Section 220.810 is not statutorily required and appears to be unduly restrictive without significant benefit. The Committee finds that this policy poses a threat to the public interest.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

OBJECTION AND FILING PROHIBITION

DEPARTMENT OF LABOR

The proposed rulemaking may not be filed with the Secretary of State or enforced by the Department of Labor for any reason following receipt of this certification and statement by the Secretary of State for as long as the Filing Prohibition remains in effect.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY

DEPARTMENT OF PUBLIC HEALTH

- 1) Lack of Rules for Stem Cell Grants
- 2) Date JCAR issued Statement of Objection: 7/11/06
- 3) Summary of Action taken by the Agency: DPH responded to the Objection by reiterating its earlier arguments (it does not plan to initiate rulemaking, maintains it has authority to award and distribute these grants under the DPH Health Powers and Duties Law and cites a Cook County court case that determined rules were not required). The Department supplied additional information concerning its procedures for issuing grants, the persons receiving grants, and out-of-state member composition of the Illinois Regenerative Medicine Institute (IMRI) panel that evaluated the grant applications. DPH further noted that neither DPH nor the IMRI program has received any additional funding this year for stem cell research. Governor Blagojevich announced on 8/17/06 that 7 projects at public universities will share \$5 million in new State funding for stem cell research. This new money comes from an administrative line in the HFS budget and was awarded from the pool of applicants who had previously submitted proposals for the original DPH \$10 million.
- 4) JCAR Action: Based on the Department's refusal to adopt rules for awarding stem cell grant funds, JCAR voted to publish this Notice of Failure to Remedy.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYNOTICE OF FAILURE TO REMEDY

DEPARTMENT OF AGRICULTURE

- 1) Heading of Part: Diseased Animals
- 2) Code Citation: 8 Ill. Adm. Code 85
- 3)

<u>Section Numbers:</u>	<u>Action:</u>
85.5	Amend
85.10	Amend
85.15	Amend
85.55	Amend
85.75	Amend
85.80	Amend
85.100	Amend
85.110	Amend
85.115	Amend
85.120	Amend
85.135	Amend
85.140	Amend
85.145	Amend
- 4) Notice of Proposal published in Illinois Register: 30 Ill. Reg. 737 - 1/20/06
- 5) Date JCAR issued Statement of Objection: 7/11/06
- 6) Summary of Action taken by the Agency: As 2nd Notice Agreements on this rulemaking, DOA representatives agreed to promulgate rules regulating release of dogs from quarantine by 1/07. However, the agency's formal response stated it would instead request guidance from the Advisory Board of Livestock Commissioners on the issue. Minutes of the 10/26/06 Board meeting indicate that the Board adopted a motion that the current policy for quarantine release is adequate and no change in rules should be initiated by the Board at that time. DOA adopted the rulemaking on 10/9/06.
- 7) JCAR Action: Based on the Department's failure to stand behind its 2nd Notice Agreement, JCAR voted to publish this Notice of Failure to Remedy and to communicate to the Department and the Board the need to codify in rule its policy for releasing dogs from quarantine.

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 November 14, 2006 through November 20, 2006 and have been scheduled for review by the Committee at its December 12, 2006 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
12/27/06	<u>Department of Commerce and Economic Opportunity</u> , Employer Training Investment Program (56 Ill. Adm. Code 2650)	9/8/06 30 Ill. Reg. 14393	12/12/06
12/28/06	<u>State Employees' Retirement System</u> , The Administration and Operation of the State Employees' Retirement System of Illinois (80 Ill. Adm. Code 1540)	9/29/06 30 Ill. Reg. 15580	12/12/06
12/29/06	<u>Pollution Control Board</u> , Control of Emissions from Large Combustion Sources (35 Ill. Adm. Code 225)	5/19/06 30 Ill. Reg. 9281	12/12/06
12/29/06	<u>Pollution Control Board</u> , Control of Emissions from Large Combustion Sources (35 Ill. Adm. Code 225)	7/28/06 30 Ill. Reg. 12705	12/12/06
12/30/06	<u>Department of Healthcare and Family Services</u> , Medical Payment (89 Ill. Adm. Code 140)	8/18/06 30 Ill. Reg. 13633	12/12/06
12/31/06	<u>Department of Human Services</u> , Comparable Benefits (89 Ill. Adm. Code 567)	8/11/06 30 Ill. Reg. 13257	12/12/06

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

1/3/07	<u>Department of Agriculture</u> , Diseased Animals (8 Ill. Adm. Code 85)	9/15/06 30 Ill. Reg. 14681	12/12/06
1/3/07	<u>Department of Human Services</u> , Customer Financial Participation (89 Ill. Adm. Code 562)	8/25/06 30 Ill. Reg. 14044	12/12/06

PROCLAMATIONS

2006-392

PARAPROFESSIONALS AND SCHOOL RELATED PERSONNEL DAY

- WHEREAS, there are more than 100,000 individuals employed by school districts, colleges and universities across Illinois as Paraprofessional and School Related Personnel such as office employees, custodians, maintenance workers, bus drivers, bus aides, paraeducators, cafeteria workers, school nurses, personal care aides, groundskeepers, secretaries, bookkeepers, clerks, library/media assistants, mechanics, security, computer lab assistants, technical support, special education assistants and other job titles; and
- WHEREAS, Paraprofessionals and School Related Personnel in Illinois provide quality services and play indispensable roles in the education of our students in our public schools; and
- WHEREAS, across Illinois, Paraprofessionals and School Related Personnel transport students to schools; keep our schools safe, clean, and well-maintained; operate our school offices efficiently and keep records properly; serve nutritious meals; and provide quality instructional assistance; and
- WHEREAS, school support personnel use their knowledge and skills to make sure students get the most out of every school day and our schools could not operate without them; and
- WHEREAS, Paraprofessional and School Related Personnel in our schools are important contributors in the effort to maintain a safe environment for both students and staff and play a central role in responding to any threat to the smooth and safe operation of our state's educational facilities; and
- WHEREAS, Illinois is proud to join in this important observance, and in supporting the invaluable role Paraprofessional and School Related Personnel play throughout Illinois in providing quality services that enable students to learn in a positive, safe, and supportive environment; and
- WHEREAS, Illinois is proud to acknowledge Paraprofessional and School Related Personnel as equal and essential partners in the education process:
- THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim the third Wednesday of November in 2006 and each subsequent year as **PARAPROFESSIONALS AND SCHOOL RELATED PERSONNEL DAY** in Illinois, to recognize the many great services Paraprofessionals and School

PROCLAMATIONS

Related Personnel provide to students, staff, and public schools throughout the State of Illinois.

Issued by the Governor on November 13, 2006.

Filed by the Secretary of State November 17, 2006.

2006-393**ARGONNE NATIONAL LABORATORY DAY**

WHEREAS, Argonne National Laboratory was created as a logical extension of the Metallurgical Laboratory at the University of Chicago, which so materially contributed to America's victory in World War II; and

WHEREAS, the Laboratory is today a world-recognized leader in scientific research and development; and

WHEREAS, scientific and technological research at the Laboratory has led to significant advances in energy, health and biotechnology, materials and chemistry, climate and weather, environmental technology, computing and information, high-energy and nuclear physics, and nuclear non-proliferation; and

WHEREAS, the Laboratory has played and continues to play a significant role in the emergence of the State of Illinois as a national center for science and technology; and

WHEREAS, the Laboratory enthusiastically cooperates with existing and new Illinois companies, believing that strengthening Illinois' technological base will create new jobs here and improve every citizen's quality of life; and

WHEREAS, the Laboratory also conducts joint research with and opens its facilities to researchers from Illinois' major universities; and

WHEREAS, Argonne National Laboratory this year marks its 60th anniversary of service to the State of Illinois and to the nation:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 28, 2006 as **ARGONNE NATIONAL LABORATORY DAY** in Illinois.

Issued by the Governor on November 15, 2006.

Filed by the Secretary of State November 17, 2006.

ILLINOIS ADMINISTRATIVE CODE

Issue Index - With Effective Dates

Rules acted upon in Volume 30, Issue 48 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

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77 - 330	18477
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