
ILLINOIS

REGISTER



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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2017

Issue#	Rules Due Date	Date of Issue
1	December 27, 2016	January 6, 2017
2	January 3, 2017	January 13, 2017
3	January 9, 2017	January 20, 2017
4	January 17, 2017	January 27, 2017
5	January 23, 2017	February 3, 2017
6	January 30, 2017	February 10, 2017
7	February 6, 2017	February 17, 2017
8	February 14, 2017	February 24, 2017
9	February 21, 2017	March 3, 2017
10	February 27, 2017	March 10, 2017
11	March 6, 2017	March 17, 2017
12	March 13, 2017	March 24, 2017
13	March 20, 2017	March 31, 2017
14	March 27, 2017	April 7, 2017
15	April 3, 2017	April 14, 2017
16	April 10, 2017	April 21, 2017
17	April 17, 2017	April 28, 2017
18	April 24, 2017	May 5, 2017
19	May 1, 2017	May 12, 2017
20	May 8, 2017	May 19, 2017

21	May 15, 2017	May 26, 2017
22	May 22, 2017	June 2, 2017
23	May 30, 2017	June 9, 2017
24	June 5, 2017	June 16, 2017
25	June 12, 2017	June 23, 2017
26	June 19, 2017	June 30, 2017
27	June 26, 2017	July 7, 2017
28	July 3, 2017	July 14, 2017
29	July 10, 2017	July 21, 2017
30	July 17, 2017	July 28, 2017
31	July 24, 2017	August 4, 2017
32	July 31, 2017	August 11, 2017
33	August 7, 2017	August 18, 2017
34	August 14, 2017	August 25, 2017
35	August 21, 2017	September 1, 2017
36	August 28, 2017	September 8, 2017
37	September 5, 2017	September 15, 2017
38	September 11, 2017	September 22, 2017
39	September 18, 2017	September 29, 2017
40	September 25, 2017	October 6, 2017
41	October 2, 2017	October 13, 2017
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44	October 23, 2017	November 3, 2017
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46	November 6, 2017	November 17, 2017
47	November 13, 2017	November 27, 2017
48	November 20, 2017	December 1, 2017
49	November 27, 2017	December 8, 2017
50	December 4, 2017	December 15, 2017
51	December 11, 2017	December 26, 2017
52	December 18, 2017	December 29, 2017

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
140.471	Amendment
140.472	Amendment
140.473	Amendment
140.474	Amendment
140.475	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments implement 42 CFR 440.70 which revised the Medicaid home health service definition and added a face-to-face encounter requirement for home health services and certain medical equipment for eligible Medicaid beneficiaries. Specifically, this rule specifies: who must encounter the patient face-to-face, how that encounter is documented and communicated, and how much time may pass between the encounter and the start of services.
- 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 rulemakings pending on this Part? Yes

<u>Sections:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citation:</u>
140.20	Amendment	41 Ill. Reg. 3098; March 17, 2017
140.475	Amendment	41 Ill. Reg. 3098; March 17, 2017
140.481	Amendment	41 Ill. Reg. 3098; March 17, 2017
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 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:

Mollie Zito
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

217/782-1233
HFS.Rules@illinois.gov

The Department requests the submission of written comments within 45 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].

- 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 anticipated by the Department when the most recent regulatory agendas were published.

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED 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 Persons Confined or Detained by the Criminal Justice System

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 Suspension and Denial of Payment, Recovery of Money and Penalties
- 140.16 Termination, Suspension or Exclusion 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, Suspension, Exclusion or Revocation on Persons

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion or Barring
- 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
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- 140.26 Payment to Factors Prohibited
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- 140.33 Publication of List of Sanctioned 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
- 140.44 Withholding of Payments Due to Fraud or Misrepresentation
- 140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible Allegation of Fraud or Failure to Cooperate
- 140.55 Electronic Data Interchange Service
- 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)
- 140.74 Resolution of Claims Related to Inaccurate or Updated Enrollment Information

SUBPART C: PROVIDER ASSESSMENTS

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- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.1010	Mandatory Enrollment in MCOs
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SUBPART L: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

Section

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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 and VI and 12-13].

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.

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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. 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

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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; 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;

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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; 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,

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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; 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.

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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, 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,

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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 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; 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 31 Ill. Reg. 1745, 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; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective

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May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; preemptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective

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May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August 20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. 4394, effective March 11, 2015; emergency amendment at 39 Ill. Reg. 6903, effective May 1, 2015 through June 30, 2015; emergency amendment at 39 Ill. Reg. 8137, effective May 20, 2015, for a maximum of 150 days; emergency amendment at 39 Ill. Reg. 10427, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 12825, effective September 4, 2015; amended at 39 Ill. Reg. 13380, effective September 25, 2015; amended at 39 Ill. Reg. 14138, effective October 14, 2015; emergency amendment at 40 Ill. Reg. 13677, effective September 16, 2016, for a maximum of 150 days; emergency expired February 12, 2017; amended at 41 Ill. Reg. 999, effective January 19, 2017; amended at 41 Ill. Reg. 3296, effective March 8, 2017; amended at 41 Ill. Reg. 7526, effective June 15, 2017; amended at 41 Ill. Reg. 10950, effective August 9, 2017; amended at 41 Ill. Reg. _____, effective _____.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.471 Description of Home Health Care Services

- a) Home health services are services provided for participants in their places of residence and are aimed at facilitating the transition from a more acute level of care to the home.
- b) Services provided shall be of a curative or rehabilitative nature and demonstrate progress toward goals outlined in a plan of care. Services shall be provided for individuals upon direct order of a physician and in accordance with a plan of care established by the physician and reviewed at least every 60 days.
- c) For purposes of this Section, "residence" includes any setting in which normal life activities take place and does not include a hospital, a skilled nursing facility, an

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intermediate care facility, a specialized mental health rehabilitation facility, ~~or~~ a supportive living facility or any setting in which payment is or could be made under Medical Assistance programs for inpatient services that include room and board. The term "residence" includes an intermediate care facility for the mentally retarded only to the extent that home health services are not required to be provided under 89 Ill. Adm. Code 144.

- d) Effective July 1, 2012, to be eligible for reimbursement by the Department, initial certification of intermittent skilled nursing services, home health aide or therapy services must have documentation that a face-to-face encounter was conducted by the practitioner requesting services. The following conditions must be met for the face-to-face encounter:
- 1) The physician responsible for performing the initial certification must document that the face-to-face patient encounter, which is related to the primary reason the patient requires home health services, has occurred no more than 90 days prior to the home health start of care date or within 30 days after the start of the home health care by including the date of the encounter and including an explanation of why the clinical findings of the encounter support that the patient is in need of either intermittent skilled nursing services, home health aide or therapy services as defined in Section 140.472.
 - 2) The face-to-face encounter must be performed by the certifying physician, a nurse practitioner, a clinical nurse specialist who is working in collaboration with the physician in accordance with State law, a certified nurse midwife as authorized by State law, a physician assistant under the supervision of the physician, or, for patients admitted to home health immediately after an acute or post-acute stay, the physician who cared for the patient in an acute or post-acute facility and who has privileges at the facility. ~~The documentation of the face-to-face encounter must be a separate and distinct section of, or an addendum to, the certification and must be clearly titled, dated and signed by the certifying physician.~~
 - A) If the certifying physician does not perform the face-to-face encounter personally, the non-physician practitioner or the physician who cared for the patient in an acute or post-acute facility performing the face-to-face encounter must communicate the clinical findings of that face-to-face patient encounter to the

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certifying physician. The clinical findings must be incorporated into a written or electronic document in the patient's medical record.

- B) If a face-to-face patient encounter occurred within 90 days prior to the start of care but is not related to the primary reason the patient requires home health services, or the patient has not seen the certifying physician or allowed non-physician practitioner within the 90 days prior to the start of the home health episode, the certifying physician or non-physician practitioner must have a face-to-face encounter with the patient within 30 days after the start of the home health care.
- C) The face-to-face patient encounter may occur through telehealth, in compliance with Section 140.403.
- D) The physician responsible for certifying the patient for home care must document that the face-to-face encounter on the certification itself, or as an addendum to the certification (as described in subsection (d)(1)) that the condition for which the patient was being treated in the face-to-face patient encounter is related to the primary reason the patient requires home health services, and occurred within the timeframes described in subsection (d)(1) why the clinical findings of the encounter support that the patient is in need of either intermittent skilled nursing services or therapy services as defined in Section 140.472. The documentation must indicate the practitioner who conducted the encounter and the date of the encounter be clearly titled, dated and signed by the certifying physician.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 140.472 ~~Types of~~ Home Health Care Services

The ~~types of~~ services and items for which payment can be made are:

- a) Intermittent skilled nursing in the home for the purpose of completing an assessment, evaluation or administration.

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- b) Shift nursing care in the home for the purpose of caring for a participant under 21 years of age who has extensive medical needs and requires ongoing skilled nursing care.
- c) Home health aide.
- d) Therapy services: Effective July 1, 2012 through September 30, 2014, speech, occupational and physical therapy services are limited to a maximum of 20 visits per State fiscal year for participants who are age 21 and over. For services provided on and after October 1, 2014, these services require prior approval by the Department for participants age 21 and over. For services on or after July 1, 2015, these services shall require prior approval by the Department for participants under age 21.
- e) [Medical equipment and supplies described in Section 140.475.](#)

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 140.473 Prior Approval for Home Health Care Services

- a) Prior approval is required for the provision of home health services described in Section 140.472. The decision to approve or deny a request for prior approval will be made within 21 days after the date the request is received or within 21 days after receipt of additional information, whichever occurs later. Prior approval is also required for participants needing more than one skilled nursing visit per day.
- b) Prior approval is required for the provision of all home health services to terminally ill participants covered under the Transitional Assistance Program and the Family and Children Assistance Program.
- c) Effective July 1, 2012, prior approval is not required for intermittent skilled nursing services provided by a home health agency provider for participants within the first 60 days after discharge from an acute care or rehabilitation hospital when services are initiated within 14 days after discharge.
- d) Prior approval is required for all in-home shift nursing for individuals who are under 21 years of age or who receive services under the Illinois Home and Community-Based Services Waiver for Persons who are Medically Fragile,

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Technology Dependent (MFTD Waiver). The decision to approve or deny a request for prior approval will be made within 21 days after the date the request is received or within 21 days after receipt of additional information, whichever occurs later. Review of services for individuals eligible for in-home shift nursing under the MFTD Waiver will be made in accordance with 89 Ill. Adm. Code 120.530.

- e) Approval will be granted when, in the judgment of a consulting physician and subject to the review of the professional staff of the Department, the services are medically necessary and appropriate to meet the participant's medical needs.
- f) Medical equipment and supplies are subject to the prior approval requirements outlined in Sections 140.40 and 140.478. Documentation of the face-to-face encounter described in Section 140.475(g) must be submitted with the prior approval.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 140.474 Payment for Home Health Care Services

- a) Effective July 1, 2012, except for services described in subsection (b), home health agencies ~~will~~ shall be paid an all inclusive, per visit rate ~~that~~ which shall be the lowest of the:
 - 1) Agency's usual and customary charge for the service;
 - 2) Agency's Medicare rate; or
 - 3) Department's maximum allowable rate of as identified in the Home Health Fee Schedule (see the Department's website). Beginning with the State fiscal year 2002, the maximum allowable rate may be adjusted annually in consideration of the appropriation of funds by the General Assembly.
- b) Payment to self-employed registered nurses providing in-home nursing services is made at the community rate for those services as determined for each case at the time prior approval is given.
- c) Payment for in-home shift nursing for children who are under 21 years of age under Section 140.472(b) shall be at the Department's established hourly rate to

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an agency licensed to provide these services. The hourly rate for in-home shift nursing care may be adjusted in consideration of the appropriation of funds by the General Assembly.

- d) [Payment for medical equipment and supplies will be made in accordance with Section 140.481.](#)

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices

- a) Payment for the provision of medical equipment, supplies, prosthetic devices and orthotic devices shall be made only to participating providers who are licensed or exempt from licensure under any licensure Act, including but not limited to the Home Medical Equipment and Services Provider License Act [225 ILCS 51].
- b) Payment for medical equipment, supplies, prosthetic devices and orthotic devices shall be made:
- 1) when:
 - A) they are essential to enable a client to remain at home or to function in the community; and
 - B) the client's physician has recommended in writing to the Department or in a patient care plan that the supplies or equipment be provided and that they are medically necessary; and
 - C) the Department has approved payment based on consideration of:
 - i) the client's medical condition,
 - ii) the benefits the item is expected to effect,
 - iii) the client's ability to adjust to and to use the item recommended, and
 - iv) in the case of a communication device, whether the device will increase the client's potential for full participation in

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health care by assisting in cause and effect awareness, or training physical movements or improving the client's understanding and comprehension of his or her health needs and responsibilities; or

- 2) when the Individual Program Plan (IPP) of an individual with developmental disabilities residing in an ICF/MR or a long term care facility identifies the equipment, supplies, prosthetic devices and orthotic devices that are necessary for his or her participation in active treatment as described in 42 CFR 483.440, Condition of Participation: Active Treatment Service.
- c) Payment shall be made for the repair of prosthetic devices, orthotic devices and medical equipment owned by recipients if the item is out of warranty and the sum of the individual repair parts and the labor does not exceed 75 percent of the cost of a new unit. Labor charges are to be included in the repair price. A guarantee of at least 180 days must be provided. Charges shall not include tax, delivery, rebate, packaging or freight. The Department may agree to assume repair costs of a rented or loaned communication system if such an agreement is required by the manufacturer's or vendor's rental or loan terms. The Department may deny payment for repairs if evidence indicates that damage has resulted from abuse of the equipment.
- d) Payment shall be made for loaner items issued pending repair or replacement of prosthetic devices, orthotic devices and medical equipment owned by recipients if it is the usual practice of the supplier to provide and charge for such items.
- e) Covered services are:
 - 1) Non-durable medical supplies for an individual's life maintenance care and treatment;
 - 2) Durable medical equipment essential to expedite a hospital discharge and to enable the person to be cared for at home;
 - 3) Prosthetic and orthotic devices, including communication devices, that are essential to enhance functional mobility or medically necessary communication, or are essential for employment;

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- 4) Respiratory equipment and supplies necessary as a life saving measure or for prevention of a medical emergency, institutionalization, or to facilitate deinstitutionalization; and
 - 5) Repair of durable medical equipment, prosthetic devices and orthotic devices.
- f) Payment shall be made for covered services on a prior approval basis, except as provided under Section 140.477.
- g) Effective July 1, 2017, to be eligible for reimbursement by the Department, certain medical equipment and supplies will be subject to a face-to-face encounter. A list of medical equipment and supplies subject to a face-to-face encounter will be published on the Department's website. The face-to-face encounter must meet the following conditions:
- 1) The face-to-face patient encounter that is related to the primary reason the patient requires medical equipment, supplies or appliances must have occurred no more than 6 months prior to start of services.
 - 2) The face-to-face encounter must be performed by the certifying physician, a nurse practitioner or clinical nurse specialist who is working in collaboration with the physician in accordance with State law, a physician assistant under the supervision of the physician, or, for patients admitted to home health immediately after an acute or post-acute stay, the physician who cared for the patient in an acute or post-acute facility.
 - A) If the certifying physician does not perform the face-to-face encounter personally, the non-physician practitioner or the physician who cared for the patient in an acute or post-acute facility performing the face-to-face encounter must communicate the clinical findings of that face-to-face patient encounter to the certifying physician. The clinical findings must be incorporated into a written or electronic document in the patient's medical record.
 - B) The certifying physician must document that the face-to-face encounter is related to the primary reason the patient requires medical equipment, supplies or appliances and occurred within the

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timeframes described in subsection (g)(1). The documentation must indicate the practitioner who conducted the encounter and the date of the encounter.

- 3) The face-to-face patient encounter may occur through telehealth, in compliance with Section 140.403.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
148.117	Amendment
148.140	Amendment
148.299	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13], Section 14-11 of the Public Aid Code [305 ILCS 5/14-11(h)] and Section 5-5.08 of the Public Aid Code [305 ILCS 5/5-5.08].
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking restores the \$60 per treatment day renal dialysis add-on payment hospitals and freestanding chronic dialysis centers received for outpatient renal dialysis treatments or home dialysis treatments provided to Medicaid recipients under Title XIX of the Social Security Act pursuant to the FY18 Budget Implementation Act (P.A. 100-0023) and implements revisions to the Medicaid Facilitation and Utilization Payments and the Outpatient Assistance Adjustment Payments for FY17 and FY18.
- 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 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:

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Mollie Zito
General Counsel
Illinois Department of Healthcare and Family Services
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217/782-1233
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The Department requests the submission of written comments within 45 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].

- 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 anticipated by the Department when the most recent regulatory agendas were published.

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 148

HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section

148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.85	Supplemental Tertiary Care Adjustment Payments (Repealed)
148.90	Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments (Repealed)
148.95	Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments (Repealed)
148.100	County Trauma Center Adjustment Payments
148.103	Outpatient Service Adjustment Payments (Repealed)
148.105	Reimbursement Methodologies for Inpatient Rehabilitation Services
148.110	Reimbursement Methodologies for Inpatient Psychiatric Services
148.112	Medicaid High Volume Adjustment Payments
148.115	Reimbursement Methodologies for Long Term Acute Care Services
148.116	Reimbursement Methodologies for Children's Specialty Hospitals
148.117	Outpatient Assistance 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
148.140	Hospital Outpatient and Clinic Services

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- 148.150 Public Law 103-66 Requirements
- 148.160 Payment Methodology for County-Owned Large Public Hospitals
- 148.170 Payment Methodology for University-Owned Large Public Hospitals
- 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act (Repealed)
- 148.180 Payment for Pre-operative Days and Patient Specific Orders
- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems (Repealed)
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991, Admissions (Repealed)
- 148.230 Admissions Occurring on or after September 1, 1991 (Repealed)
- 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals (Repealed)
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates (Repealed)
- 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 (Repealed)
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements (Repealed)
- 148.285 Excellence in Academic Medicine Payments (Repealed)
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments
- 148.296 Transitional Supplemental Payments
- 148.297 Physician Development Incentive Payments
- 148.298 Pediatric Inpatient Adjustment Payments (Repealed)
- 148.299 Medicaid Facilitation and Utilization Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives (Repealed)
- 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 Sub-acute Alcoholism and Substance Abuse Treatment Services
- 148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services

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	(Repealed)
148.390	Hearings
148.400	Special Hospital Reporting Requirements
148.402	Medicaid Eligibility Payments (Repealed)
148.404	Medicaid High Volume Adjustment Payments (Repealed)
148.406	Intensive Care Adjustment Payments (Repealed)
148.408	Trauma Center Adjustment Payments (Repealed)
148.410	Psychiatric Rate Adjustment Payments (Repealed)
148.412	Rehabilitation Adjustment Payments (Repealed)
148.414	Supplemental Tertiary Care Adjustment Payments (Repealed)
148.416	Crossover Percentage Adjustment Payments (Repealed)
148.418	Long Term Acute Care Hospital Adjustment Payments (Repealed)
148.420	Obstetrical Care Adjustment Payments (Repealed)
148.422	Outpatient Access Payments (Repealed)
148.424	Outpatient Utilization Payments (Repealed)
148.426	Outpatient Complexity of Care Adjustment Payments (Repealed)
148.428	Rehabilitation Hospital Adjustment Payments (Repealed)
148.430	Perinatal Outpatient Adjustment Payments (Repealed)
148.432	Supplemental Psychiatric Adjustment Payments (Repealed)
148.434	Outpatient Community Access Adjustment Payments (Repealed)
148.436	Long Term Stay Hospital Per Diem Payments
148.440	High Volume Adjustment Payments
148.442	Inpatient Services Adjustment Payments
148.444	Capital Needs Payments
148.446	Obstetrical Care Payments
148.448	Trauma Care Payments
148.450	Supplemental Tertiary Care Payments
148.452	Crossover Care Payments
148.454	Magnet Hospital Payments
148.456	Ambulatory Procedure Listing Increase Payments
148.458	General Provisions
148.460	Catastrophic Relief Payments (Repealed)
148.462	Hospital Medicaid Stimulus Payments (Repealed)
148.464	General Provisions
148.466	Magnet and Perinatal Hospital Adjustment Payments
148.468	Trauma Level II Hospital Adjustment Payments
148.470	Dual Eligible Hospital Adjustment Payments
148.472	Medicaid Volume Hospital Adjustment Payments
148.474	Outpatient Service Adjustment Payments

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148.476	Ambulatory Service Adjustment Payments
148.478	Specialty Hospital Adjustment Payments
148.480	ER Safety Net Payments
148.482	Physician Supplemental Adjustment Payments
148.484	Freestanding Children's Hospital Adjustment Payments
148.486	Freestanding Children's Hospital Outpatient Adjustment Payments

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section	
148.500	Definitions
148.510	Reimbursement

SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

Section	
148.600	Definitions
148.610	Scope of the Program
148.620	Assistance Level and Reimbursement
148.630	Criteria and Information Required to Establish Eligibility
148.640	Covered Services

SUBPART E: INSTITUTION FOR MENTAL DISEASES PROVISIONS FOR HOSPITALS

Section	
148.700	General Provisions

SUBPART F: EMERGENCY PSYCHIATRIC DEMONSTRATION PROGRAM

Section	
148.800	General Provisions
148.810	Definitions
148.820	Individual Eligibility for the Program
148.830	Providers Participating in the Program
148.840	Stabilization and Discharge Practices
148.850	Medication Management
148.860	Community Connect IMD Hospital Payment
148.870	Community Connect TCM Agency Payment
148.880	Program Reporting

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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 and VI and 12-13].

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

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effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. 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.

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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 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

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maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006; emergency amendment at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 1997, effective January 15, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 5596, effective April 1, 2007; amended at 31 Ill. Reg. 8123, effective May 30, 2007; amended at 31 Ill. Reg. 8508, effective June 1, 2007; emergency amendment at 31 Ill. Reg. 10137, effective July 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11688, effective August 1, 2007; amended at 31 Ill. Reg. 14792, effective October 22, 2007; amended at 32 Ill. Reg. 312, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 518, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 2993, effective February 16, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 8718, effective May 29, 2008; amended at 32 Ill. Reg. 9945, effective June 26, 2008; emergency amendment at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 33 Ill. Reg. 501, effective December 30, 2008; peremptory amendment at 33 Ill. Reg. 1538, effective December 30, 2008; emergency amendment at 33 Ill. Reg. 5821, effective April 1, 2009, for a maximum of 150 days; emergency expired August 28, 2009; amended at 33 Ill. Reg. 13246, effective September 8, 2009; emergency amendment at 34 Ill. Reg. 15856, effective October 1, 2010, for a maximum of 150 days; emergency expired February 27, 2011; amended at 34 Ill. Reg. 17737, effective November 8, 2010; amended at 35 Ill. Reg. 420, effective December 27, 2010; expedited correction at 38 Ill. Reg. 12618, effective December 27, 2010; amended at 35 Ill. Reg. 10033, effective June 15, 2011; amended at 35 Ill. Reg. 16572, effective October 1, 2011; emergency amendment at 36 Ill. Reg. 10326, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 148.70(g) suspended at 36 Ill. Reg. 13737, effective August 15, 2012; suspension withdrawn from Section 148.70(g) at 36 Ill. Reg. 18989, December 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 148.70(g) at 36 Ill. Reg. 18976, effective December 12, 2012 through June 30, 2013; emergency amendment to Section 148.140(b)(1)(F) suspended at 36 Ill. Reg. 13739, effective August 15, 2012; suspension withdrawn from Section 148.140(b)(1)(F) at 36 Ill. Reg. 14530, September 11, 2012; emergency amendment to Sections 148.140(b) and 148.190(a)(2) in response to Joint Committee on Administrative Rules action at 36 Ill. Reg. 14851, effective September 21, 2012 through June 30, 2013; amended at 37 Ill. Reg. 402, effective December 27, 2012; emergency rulemaking at 37 Ill. Reg. 5082, effective April 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 10432, effective June 27, 2013; amended at 37 Ill. Reg. 17631, effective October 23, 2013; amended at 38 Ill. Reg. 4363, effective January 29, 2014; amended at 38 Ill. Reg. 11557, effective May 13, 2014; amended at 38 Ill. Reg. 13263, effective June 11, 2014; amended at 38 Ill. Reg. 15165, effective July 2, 2014; emergency amendment at 39 Ill. Reg. 10453, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 10824, effective July 27, 2015; amended at 39 Ill. Reg. 16394, effective December 14, 2015; amended at

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41 Ill. Reg. 1041, effective January 19, 2017; amended at 41 Ill. Reg. _____, effective _____.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.117 Outpatient Assistance Adjustment Payments

Effective for dates of service on or after July 1, 2014, except when specifically designated otherwise in this Section:

- a) **Qualifying Criteria.** Outpatient Assistance Adjustment Payments, as described in subsection (b) of this Section, shall be made to Illinois hospitals meeting one of the criteria identified in this subsection (a):
 - 1) A general acute care hospital that qualifies for Disproportionate Share Adjustment Payments for rate year 2007, as defined in Section 148.120, has an emergency care percentage greater than 85%.
 - 2) A general acute care hospital located outside of Cook County that qualifies for Medicaid Percentage Adjustment Payments for rate year 2007 as defined in Section 148.122, is a trauma center recognized by the Illinois Department of Public Health (DPH) as of July 1, 2006, has an emergency care percentage greater than 58%, and has provided more than 1,000 Medicaid Non-emergency/Screening outpatient ambulatory procedure listing services in the outpatient assistance base year.
 - 3) A hospital that has an MIUR of greater than 50% and an emergency care percentage greater than 80%, and that provided more than 6,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.
 - 4) A hospital that has an MIUR of greater than 70% and an emergency care percentage greater than 90%.
 - 5) A general acute care hospital, not located in Cook County, that is not a trauma center recognized by DPH as of July 1, 2006 and did not qualify for Medicaid Percentage Adjustment payments for rate year 2007, as defined in Section 148.122, has an MIUR of greater than 25% and an emergency care percentage greater than 50%, and that provided more than

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8,500 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

- 6) A general acute care hospital, not located in Cook County, that is a Level I trauma center recognized by DPH as of July 1, 2006, has an emergency care percentage greater than 50%, and provided more than 16,000 Medicaid outpatient ambulatory procedure listing services, including more than 1,000 non-emergency screening outpatient ambulatory procedure listing services, in the outpatient assistance base year.
- 7) A general acute care hospital, not located in Cook County, that qualified for Medicaid Percentage Adjustment payments for rate year 2007, as defined in Section 148.122, has an emergency care percentage greater than 55%, and provided more than 12,000 Medicaid outpatient ambulatory procedure listing services, including more than 600 surgical group outpatient ambulatory procedure listing services and 7,000 emergency services in the outpatient assistance base year.
- 8) A general acute care hospital that has an emergency care percentage greater than 75% and provided more than 15,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.
- 9) A rural hospital that has an MIUR of greater than 40% and provided more than 16,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.
- 10) A general acute care hospital, not located in Cook County, that is a trauma center recognized by DPH as of July 1, 2006, had more than 500 licensed beds in calendar year 2005, and provided more than 11,000 Medicaid outpatient ambulatory procedure listing services, including more than 950 surgical group outpatient ambulatory procedure listing services, in the outpatient assistance base year.
- 11) A general acute care hospital is recognized as a Level I trauma center by DPH on the first day of the OAAP rate period, has Emergency Level I services greater than 2,000, Emergency Level II services greater than 8,000, and greater than 19,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

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- b) Outpatient Assistance Adjustment Payments
- 1) For hospitals qualifying under subsection (a)(1), the rate is \$850.00 for dates of service through February 28, 2014. For dates of service on March 1, 2014 through June 30, 2014, the rate is \$1,523.00. For dates of service on or after July 1, 2014, the rate is \$0.00.
 - 2) For hospitals qualifying under subsection (a)(2), the rate is \$290.00 for dates of service on or after July 1, 2014.
 - 3) For hospitals qualifying under subsection (a)(3), the rate is \$250.00 for dates of service on or after July 1, 2014.
 - 4) For hospitals qualifying under subsection (a)(4), the rate is \$336.25 for dates of service on or after July 1, 2014.
 - 5) For hospitals qualifying under subsection (a)(5), the rate is \$110.00 for dates of service on or after July 1, 2014.
 - 6) For hospitals qualifying under subsection (a)(6), the rate is \$200.00 for dates of service on or after July 1, 2014.
 - 7) For hospitals qualifying under subsection (a)(7), the rate is \$247.50 for dates of service on ~~or after~~ July 1, 2014 through March 31, 2017. For dates of service on April 1, 2017 through June 30, 2018, the rate is \$610.20. For dates of service on or after July 1, 2018, the rate is \$0.00.
 - 8) For hospitals qualifying under subsection (a)(8), the rate is \$205.00 for dates of service on or after July 1, 2014.
 - 9) For hospitals qualifying under subsection (a)(9), the rate is \$65.00 for dates of service on or after July 1, 2014.
 - 10) For hospitals qualifying under subsection (a)(10), the rate is \$90.00 for dates of service on or after July 1, 2014.
 - 11) For hospitals qualifying under subsection (a)(11), the rate is \$47.00 for dates of service on or after July 1, 2010.

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- c) Payment to a Qualifying Hospital
- 1) The total annual payments to a qualifying hospital shall be the product of the hospital's rate multiplied by the Medicaid outpatient ambulatory procedure listing services in the outpatient assistance adjustment base year.
 - 2) For the outpatient assistance adjustment period for fiscal year 2010 and after, total payments will equal the amount determined using the methodologies described in subsection (c)(1) and shall be paid to the hospital, at least, on a quarterly basis.
 - 3) Payments described in this Section are subject to federal approval.
- d) Definitions
- 1) "Emergency care percentage" means a fraction, the numerator of which is the total Group 3 ambulatory procedure listing services as described in Section 148.140(b)(1)(C), excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2005 contained in the Department's data base adjudicated through June 30, 2006, and the denominator of which is the total ambulatory procedure listing services as described in Section 148.140(b)(1), excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2005 contained in the Department's data base adjudicated through June 30, 2006.
 - 2) "General acute care hospital" is a hospital that does not meet the definition of a hospital contained in Section 148.25(a) and (d).
 - 3) "Outpatient Ambulatory Procedure Listing Payments" means, for a given hospital, the sum of payments for ambulatory procedure listing services as described in Section 148.140(b)(1), excluding payments for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.

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- 4) "Outpatient assistance year" means, beginning January 1, 2007, the 6-month period beginning on January 1, 2007 and ending June 30, 2007, and beginning July 1, 2007, the 12-month period beginning July 1 of the year and ending June 30 of the following year.
 - 5) "Outpatient assistance base period" means the 12-month period beginning on July 1, 2004 and ending June 30, 2005.
 - 6) "Surgical group outpatient ambulatory procedure listing services" means, for a given hospital, the sum of ambulatory procedure listing services as described in Section 148.140(b)(1)(A), excluding services for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.
 - 7) "Non-emergency/screening outpatient ambulatory procedure listing services" means, for a given hospital, the sum of ambulatory procedure listing services as described in Section 148.140(b)(1)(C)(iii), excluding services for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.
 - 8) "High tech diagnostic Medicaid outpatient ambulatory procedure listing services" means, for a given hospital, the sum of ambulatory procedure listing services described in Section 148.140(b)(1)(B)(ii), excluding services for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.
- e) **Payment Limitations:** In order to be eligible for any new payment or rate increase under this Section that would otherwise become effective for dates of service on or after July 1, 2010, a hospital located in a geographic area of the State in which the Department mandates some or all of the beneficiaries of the Medical Assistance Program residing in the area to enroll in a Care Coordination program as defined in 305 ILCS 5/5-30 must be a Coordinated Care Participating Hospital

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as defined in Section 148.295(g)(5). This payment limitation takes effect six months after the Department begins mandatory enrollment in the geographic area.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 148.140 Hospital Outpatient and Clinic Services

Effective for dates of service on or after July 1, 2014:

- a) Fee-For-Service Reimbursement
 - 1) Reimbursement for hospital outpatient services shall be made on a fee-for-service basis, except for:
 - A) Services described in subsection (b)(1).
 - B) End stage renal disease treatment (ESRDT) services, as described in subsection (g).
 - 2) Except for the services reimbursed under the EAPG PPS, described in subsection (b)(1), fee-for-service reimbursement levels shall be at the lower of the hospital's usual and customary charge to the public or the Department's statewide maximum reimbursement screens. Hospitals will be required to bill the Department utilizing specific service codes. However, all specific client coverage policies (relating to client eligibility and scope of services available to those clients) that pertain to the service billed are applicable to hospitals in the same manner as to non-hospital providers who bill fee for service.
 - 3) Hospitals are required to bill the Department utilizing specific service codes. All specific client coverage policies (relating to client eligibility and scope of services available to those clients) that pertain to the service billed are applicable to hospitals in the same manner as to non-hospital providers who bill fee-for-service.
 - 4) Payments under Section 148.140(a)(4) shall cease as of June 30, 2014 for Maternal and Child Health Program Clinics.

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- b) EAPG PPS Reimbursement. Reimbursement under EAPG PPS, described in subsection (c), shall be all-inclusive for all services provided by the hospital, without regard to the amount charged by a hospital. Except as provided in subsection (b)(3), no separate reimbursement will be made for ancillary services or the services of hospital personnel.
- 1) Outpatient hospital services reimbursed through the EAPG PPS shall include:
 - A) Surgical services.
 - B) Diagnostic and therapeutic services.
 - C) Emergency department services.
 - D) Observation services.
 - E) Psychiatric treatment services.
 - 2) Excluded from reimbursement under the EAPG PPS are outpatient hospital services reimbursed pursuant to 59 Ill. Adm. Code 131 and 132, 77 Ill. Adm. Code 2090, and Section 148.330 of this Part.
 - 3) Exceptions to All-inclusive EAPG PPS Rate
 - A) A hospital may bill separately for:
 - i) Professional services of a physician who provided direct patient care.
 - ii) Chemotherapy services provided in conjunction with radiation therapy services.
 - iii) Physical rehabilitation, occupational or speech therapy services provided in conjunction with an APG PPS reimbursed service.
 - B) For the purposes of subsection (b)(3)(A), a physician means:

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- i) A physician salaried by the hospital. Physicians salaried by the hospital do not include radiologists, pathologists, nurse practitioners, or certified registered nurse anesthetists; no separate reimbursement will be allowed for those providers.
 - ii) A physician who is reimbursed by the hospital through a contractual arrangement to provide direct patient care.
 - iii) A group of physicians with a financial contract to provide emergency department care.
- c) EAPG PPS Payment. The reimbursement to hospitals for outpatient services provided on the same day shall be the product, rounded to the nearest hundredth, of the following:
 - 1) The EAPG weighting factor of the EAPG to which the service was assigned by the EAPG grouper.
 - 2) The EAPG conversion factor, based on the sum of:
 - A) The product, rounded to the nearest hundredth, of:
 - i) the labor-related share;
 - ii) the Medicare IPPS wage index; and
 - iii) the applicable EAPG standardized amount.
 - B) The product, rounded to the nearest hundredth, of:
 - i) non-labor share; and
 - ii) the applicable EAPG standardized amount.
 - 3) The applicable consolidation factor.
 - 4) The applicable packaging factor.
 - 5) The applicable discounting factor.

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- 6) The applicable policy adjustment factors, as defined in subsection (f), for which the service qualifies.
- d) EAPG Standardized Amount. The standardized amount established by the Department as the basis for EAPG conversion factor differs based on the provider type:
- 1) County-operated Large Public Hospital EAPG Standardized Amount. For a large public hospital, as defined in Section 148.25(a)(1), the EAPG standardized amount is determined in Section 148.160.
 - 2) University-operated Large Public Hospital EAPG Standardized Amount. For a large public hospital, as defined in Section 148.25(a)(2), the EAPG standardized amount is determined in Section 148.170.
 - 3) Critical Access Hospital EAPG Standardized Amount. For critical access hospitals, as defined in Section 148.25(g), the EAPG standardized amounts are determined separately for each critical access hospital such that simulated EAPG payments using outpatient base period paid claim data plus payments as defined in Section 148.456 net of tax costs are equal to the estimated costs of outpatient base period claims data with a rate year cost inflation factor applied.
 - 4) Acute EAPG Standardized Amount
 - A) Qualifying Criteria. General acute hospitals and freestanding emergency centers as defined in 148.25(e) excluding providers in subsections (d)(1) through (d)(3), freestanding psychiatric hospitals, psychiatric distinct part units, freestanding rehabilitation hospitals, and rehabilitation distinct part units.
 - B) The acute EAPG standardized amount is based on a single statewide amount determined such that:
 - i) Simulated EAPG payments, without SMART Act reductions or policy adjustments defined in subsection (f), using general acute hospital outpatient base period paid

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claims data, result in approximately a \$75 million increase compared to the amount derived in subsection (d)(4)(B)(ii).

- ii) The sum of general acute hospital base period paid claims data reported payments and allocated outpatient static payments.
- 5) Psychiatric EAPG Standardized Amount
- A) Qualifying Criteria. Freestanding psychiatric hospitals and psychiatric distinct part units.
 - B) The psychiatric EAPG standardized amount is based on a single statewide amount, determined such that:
 - i) Simulated EAPG payments, without policy adjustments defined in subsection (f), using freestanding psychiatric hospitals and psychiatric distinct part units outpatient base period paid claims data, results in payments approximately equal to the amount derived in subsection (d)(5)(B)(ii).
 - ii) The sum of freestanding psychiatric hospitals and psychiatric distinct part units outpatient base period paid claims data reported payments and allocated outpatient static payments.
- 6) Rehabilitation EAPG Standardized Amount
- A) Qualifying Criteria. Freestanding rehabilitation hospitals and rehabilitation distinct part units.
 - B) The rehabilitation EAPG standardized amount is based on a single statewide amount, determined such that:
 - i) Simulated EAPG payments, without SMART Act reductions or policy adjustments defined in subsection (f), using freestanding rehabilitation hospitals and rehabilitation distinct part units outpatient base period paid

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claims data, results in payments approximately equal to the annual derived in subsection (d)(6)(B)(ii).

- ii) The sum of freestanding rehabilitation hospitals and rehabilitation distinct part units outpatient base period paid claims data reported payments and allocated outpatient static payments.
- 7) Ambulatory Surgical Treatment Center (ASTC) EAPG Standardized Amount. For ASTC's, as defined in 89 Ill. Adm. Code 146.105, the EAPG standardized amount is determined such that simulated EAPG payments using outpatient base period paid claims data are equal to reported payments of outpatient base period paid claims data as contained in the Department's claims data warehouse.
- 8) Out-of-state non-cost reporting hospital EAPG standardized amount. For non-cost reporting hospitals, the EAPG standardized amount is \$362.32.
- e) Discounting factor. The applicable discounting factor is based on the discounting flags designated by the EAPG grouper under default EAPG settings:
- 1) The discounting factor will be 1.0000, if the following criteria are met:
 - A) The service has not been designated with a Bilateral Procedure Discounting flag, Multiple Procedure Discounting flag, Repeat Ancillary Discounting flag or Terminated Procedure Discounting flag by the EAPG grouper under default EAPG settings; or
 - B) The service has not been designated with a Bilateral Procedure Discounting flag and has been designated with a Multiple Procedure Discounting flag by the EAPG grouper under default EAPG settings and the service has the highest EAPG weighting factor among other services with a Multiple Procedure Discounting flag provided on the same day.
 - 2) The discounting factor will be 0.5000 if the following criteria are met:
 - A) The service has been designated with a Multiple Procedure Discounting flag, Repeat Ancillary Discounting flag or Terminated

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Procedure Discounting flag by the EAPG grouper under default EAPG settings; and if the Multiple Procedure Discounting flag is present, the service does not have the highest EAPG weighting factor among other services with a Multiple Procedure Discounting flag provided on the same day; and

- B) The service has not been designated with a Bilateral Procedure Discounting flag by the EAPG grouper under default EAPG settings.
- 3) The discounting factor will be 0.7500 if the following criteria are met:
- A) The service has been designated with a Bilateral Procedure Discounting flag by the EAPG grouper under default EAPG settings; and
 - B) The service has been designated with a Multiple Procedure Discounting flag, the Repeat Ancillary Discounting flag or Terminated Procedure Discounting flag by the EAPG grouper under default EAPG settings; and if the Multiple Procedure Discounting flag is present, the service does not have the highest EAPG weighting factor among other services with a Multiple Procedure Discounting flag provided on the same day.
- 4) The discounting factor will be 1.5000 if the following criteria are met:
- A) The service has been designated with a Bilateral Procedure Discounting flag by the EAPG grouper under default EAPG settings; and
 - B) The service has not been designated with a Multiple Procedure Discounting flag, the Repeat Ancillary Discounting flag or Terminated Procedure Discounting flag by the EAPG grouper under default EAPG settings; or if the Multiple Procedure Discounting flag is present, the service has the highest EAPG weighting factor among other services with a Multiple Procedure Discounting flag provided on the same day.

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- f) Policy Adjustments. Claims for services by providers that meet certain criteria shall qualify for further adjustments to payment. If a claim qualifies for more than one policy adjustment, then the EAPG PPS payment will be multiplied by both factors.
- 1) Safety Net Hospital Qualifying Criteria
 - A) The service is described in subsection (b)(1), excluding Medicare crossover claims.
 - B) The hospital is a Safety Net hospital, as defined in Section 5-5e.1 of the Illinois Public Aid Code that is not:
 - i) A critical access hospital, as defined in Section 148.25(g).
 - ii) A large public hospital, as defined in Section 148.25(a).
 - C) Policy adjustment factor effective SFY 2015 and 2016 is 1.3218.
 - 2) High Outpatient Volume Hospital Qualifying Criteria
 - A) The service is described in subsection (b)(1), excluding Medicare crossover claims.
 - B) The hospital is a High Outpatient Volume hospital, as defined in subsection (f)(2)(C) that is not:
 - i) A critical access hospital, as defined in Section 148.25(g).
 - ii) A large public hospital, as defined in Section 148.25(a).
 - iii) A Safety Net hospital, as defined in Section 5-5e.1 of the Illinois Public Aid Code.
 - C) A High Outpatient Volume hospital for which the high outpatient volume is at least:
 - i) 1.5 standard deviations above the mean regional high outpatient volume; or

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- ii) 1.5 standard deviations above the mean statewide high outpatient volume.
 - D) Policy adjustment factor effective SFY 2015 and 2016 is 1.3218.
- 3) Crossover Adjustment Factor
 - A) Acute EAPG standardized amounts, as defined in subsection (d)(4), shall be reduced by a Crossover Adjustment factor such that:
 - i) The absolute value of the total simulated payment reduction that occurs when applying the Crossover Adjustment Factor to simulated EAPG payments, including Policy Adjustments, using general acute hospital outpatient base period paid claims data, is equal to the amount derived in subsection (f)(3)(A)(ii):
 - ii) The difference of total simulated EAPG payments using general acute hospital outpatient crossover paid claims data, and general acute hospital outpatient crossover paid claims data total reported Medicaid net liability.
 - B) Crossover Adjustment Factor effective SFY 2015 and 2016 is 0.98912.
- 4) If a claim does not qualify for a Policy Adjustment described in subsections (f)(1) through (f)(3), the policy adjustment factor is 1.0.
- g) Payment for outpatient end-stage renal disease treatment (ESRDT) services provided pursuant to Section 148.40(b) shall be made at the Department's payment rates, as follows:
 - 1) For outpatient services or home dialysis treatments provided pursuant to Section 148.40(c)(2) or (c)(3), the Department will reimburse hospitals and clinics for ESRDT services at a rate that will reimburse the provider for the dialysis treatment and all related supplies and equipment, as defined in 42 CFR 405.2124 and 413.170 (2010). This rate will be the

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rate established by Medicare pursuant to 42 CFR 405.2124 and 413.170 (2010).

- 2) Payment for Non-routine Services. For services that are provided during outpatient or home dialysis treatment pursuant to Section 148.40(c)(2) or (c)(3), but are not defined as a routine service under 42 CFR 405.2163 (1994), separate payment will be made to independent laboratories, pharmacies, and medical supply providers pursuant to 89 Ill. Adm. Code 140.430 through 140.434, 140.440 through 140.50, and 140.75 through 140.481, respectively.
 - 3) Payment for physician services relating to ESRDT will be made separately to physicians, pursuant to 89 Ill. Adm. Code 140.400.
 - 4) Effective with dates of service July 1, 2013 ~~through June 30, 2015~~, hospital and freestanding chronic dialysis centers will receive an add-on payment of \$60 per treatment day to the rate described in subsection (g)(1) for outpatient renal dialysis treatments or home dialysis treatments provided to ~~Medicaid~~ ~~Medicare~~ recipients under Title XIX of the Social Security Act, excluding services for individuals eligible for Medicare under Title ~~XVIII~~ ~~XVII~~ of that Act (Medicaid/Medicare crossovers) and excluding services provided under Subpart D: State Chronic Renal Disease Program, as defined in Sections 148.600 through 148.640.
- h) Updates to EAPG PPS Reimbursement. The Department may annually review the components listed in subsection (c) and make adjustments as needed. Grouper shall be updated at least triennially and no more frequently than annually.
- i) Definitions

"Aggregate ancillary cost-to-charge ratio" means the ratio of each hospital's total ancillary costs and charges reported in the Medicare cost report, excluding special purpose cost centers and the ambulance cost center, for the cost reporting period matching the outpatient base period claims data. Aggregate ancillary cost-to-charge ratios applied to SFY 2011 outpatient base period claims data will be based on fiscal year ending 2011 Medicare cost report data.

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"Consolidation factor" means a factor of 0 percent applicable for services designated with a Same Procedure Consolidation flag or Clinical Procedure Consolidation flag by the EAPG grouper under default EAPG settings.

"Default EAPG settings" means the default EAPG grouper options in 3M's Core Grouping Software for each EAPG grouper version.

"EAPG" means Enhanced Ambulatory Patient Groups, as defined in the EAPG grouper, which is a patient classification system designed to explain the amount and type of resources used in an ambulatory visit. Services provided in each EAPG have similar clinical characteristics and similar resource use and cost.

"EAPG grouper" means the most recently released version of the EAPG software, distributed by 3M Health Information Systems, available to the Department as of January 1 of the calendar year during with the discharge occurred; except, for the calendar year beginning January 1, 2014, EAPG grouper means version 3.7 of the EAPG software.

"EAPG PPS" means the EAPG prospective payment system as described in this Section.

"EAPG weighting factor" means, for each EAPG, the product, rounded to the nearest ten-thousandth, of:

the national weighting factor, as published by 3M Health Information Systems for the EAPG grouper; and

the Illinois experience adjustment.

"Estimated cost of outpatient base period claims data" means the product of:

outpatient base period paid claims data total covered charges;

the critical access hospital's aggregate ancillary cost-to-charge ratio; and

a rate year cost inflation factor.

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"High outpatient volume" means the number paid outpatient claims described in subsection (b)(1) provided during the high volume outpatient base period paid claims data.

"High volume outpatient base period paid claims data" means SFY 2011 outpatient Medicaid fee-for-service paid claims data, excluding Medicare dual eligible claims, renal dialysis claims, and therapy claims, for EAPG PPS payment for services provided in SFY 2015 and 2016. For subsequent dates of service, the term means the SFY ending 30 months prior to the beginning of the calendar year during which the service is provided.

"Illinois experience adjustment" means, for the calendar year beginning January 1, 2014, a factor of 1.0; for subsequent calendar years, means the factor applied to 3M EAPG national weighting factors when updating EAPG grouper versions determined such that the arithmetic mean EAPG weighting factor under the new EAPG grouper version is equal to the arithmetic mean EAPG weighting factor under the prior EAPG grouper version using outpatient base period claims data.

"Labor-related share" means that portion of the statewide standardized amount that is allocated in the EAPG PPS methodology to reimburse the costs associated with personnel. The labor-related share for a hospital is 0.60.

"Mean regional high outpatient volume" means the quotient, rounded to the nearest tenth, resulting from the number of paid outpatient services described in subsections (b)(1)(A) through (D), provided by hospitals within a region, based on outpatient base period paid claims data.

"Mean statewide high outpatient volume" means the quotient, rounded to the nearest tenth, resulting from the number of paid outpatient services described in subsections (b)(1)(A) through (D), provided by hospitals within the state, based on outpatient base period paid claims data.

"Medicare IPPS wage index" means for in-state providers and out-of-state Illinois Medicaid cost reporting providers, the wage index used for inpatient reimbursement as described in 89 Ill. Adm. Code 149.100. For out-of-state non-cost reporting providers, the wage index used to adjust the EAPG standardized amount shall be a factor of 1.0.

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"Non-labor share" means the difference resulting from the labor-related share being subtracted from 1.0.

"Outpatient base period paid claims data" means SFY 2011 outpatient Medicaid fee-for-service paid claims data, excluding Medicare dual eligible claims, renal dialysis claims, and therapy claims, for EAPG PPS payment for services provided in SFY 2015, 2016 and 2017; for subsequent dates of service, the term means the most recently available adjudicated 12 months of outpatient paid claims data to be identified by the Department.

"Outpatient crossover paid claims data" means SFY 2011 outpatient Medicaid/Medicare dual eligible fee-for-service paid claims data, excluding renal dialysis claims and therapy claims, for EAPG PPS payment for services provided in SFY 2015, 2016 and 2017; for subsequent dates of service, the term means most recently available adjudicated 12-months of outpatient paid claims data to be identified by the Department.

"Packaging factor" means a factor of 0 percent applicable for services designated with a Packaging flag by the EAPG grouper under default EAPG settings plus EAPG 430 (CLASS I CHEMOTHERAPY DRUGS), EAPG 435 (CLASS I PHARMACOTHERAPY), EAPG 495 (MINOR CHEMOTHERAPY DRUGS), EAPG 496 (MINOR PHARMACOTHERAPY), and EAPGs 1001-1020 (DURABLE MEDICAL EQUIPMENT LEVEL 1-20), and non-covered revenue codes defined in the Handbook for Hospital Services.

"Rate year cost inflation factor" means the cost inflation from the midpoint of the outpatient base period paid claims data to the midpoint of the rate year based on changes in Centers for Medicare and Medicaid Services (CMMS) input price index levels. For critical access hospital rates effective SFY 2015, the rate year cost inflation factor will be based on changes in CMMS input price index levels from the midpoint of SFY 2011 to SFY 2015.

"Region" means, for a given hospital, the rate region, as defined in 89 Ill. Adm. Code 140. Table J, within which the hospital is located.

"Total covered charges" means the amount entered for revenue code 001 in column 53 (Total Charges) on the Uniform Billing Form (form CMMS 1450), or one of its electronic transaction equivalents.

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(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 148.299 Medicaid Facilitation and Utilization Payments

Medicaid Facilitation and Utilization Payments shall be made on a monthly basis as follows:

- a) **Qualifying Hospitals.** Hospitals may qualify for the Medicaid Facilitation and Utilization Payments if they meet any of the following criteria:
 - 1) The hospital must be an Illinois general acute care hospital that had an increase over 35% of the total Medicaid days, excluding Medicare crossover days, from State fiscal year 2009 to State fiscal year 2013 as recorded in the Department's paid claims data, had more than 50 routine beds as included in the 2012 cost report filed with the Department, and, for State fiscal year 2013, the average length of stay was less than 4.5 days.
 - 2) The hospital must be an Illinois general acute care hospital that had a Medicaid Inpatient Utilization Rate (MIUR), as defined in Section 148.120(i)(4), between 50 and 80 percent, is designated a Perinatal Level II facility, and had less than 110 routine beds as included in the 2012 Cost Report on file with the Department, and, for State fiscal year 2013, provided greater than 6,000 Medicaid days, excluding Medicare crossover days, as recorded in the Department's paid claims database.
 - 3) The hospital must be an Illinois children's hospital, as defined in Section 148.25(d)(3)(B), had greater than 10 routine beds as included in the 2012 cost report on file with the Department, and for State fiscal year 2013, the average length of stay was less than 4.5 days.
- b) **Rates**
 - 1) Hospitals qualifying under subsection (a)(1) will receive the following:
 - A) If the hospital provided more than 4,000 covered Medicaid days, excluding Medicare crossover days in State fiscal year 2013, as recoded in the Department's paid claims database, the rate is \$947.00 for dates of service on July 1, 2014 through June 30, 2015. For dates of service on ~~or after~~ July 1, 2015 through March 31,

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2017, the rate is \$0.00. For dates of service on or after April 1, 2017 through June 30, 2018, the rate is \$738.00. For dates of service on or after July 1, 2018, the rate is \$0.00.

- B) If the hospital provided less than 4,000 covered Medicaid days, excluding Medicare crossover days, in State fiscal year 2013, as recoded in the Department's paid claims database, the rate is \$76.00 for dates of service on July 1, 2014 through June 30, 2015. For dates of service on or after July 1, 2015, the rate is \$0.00.
- 2) Hospitals qualifying under subsection (a)(2) will receive the following:
- A) If the hospital had greater than 100 routine beds, as included in the 2012 cost report on file with the Department, the rate is \$205.00 for dates of service on July 1, 2014 through June 30, 2015. For dates of service on or after July 1, 2015, the rate is \$0.00.
- B) If the hospital had less than 100 routine beds, as included in the 2012 cost report on file with the Department, the rate is \$59.00 for dates of service on July 1, 2014 through June 30, 2015. For dates of service on or after July 1, 2015, the rate is \$0.00.
- 3) Hospitals qualifying under subsection (a)(3) will receive a rate of \$390.00 for dates of service on July 1, 2014 through June 30, 2015. For dates of service on or after July 1, 2015, the rate is \$0.00.
- c) Payment for a qualifying hospital shall be the product of the rate as defined in subsection (b), multiplied by the hospital's SFY 2013 covered days less Medicare crossover days as recorded in the Department's paid claims data (adjudicated through February 21, 2014).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Forest Management Plan
- 2) Code Citation: 17 Ill. Adm. Code 1537
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1537.1	Amendment
1537.12	Amendment
1537.20	Amendment
1537.21	Amendment
1537.42	Amendment
1537.60	Amendment
1537.72	Amendment
1537.EXHIBIT A	Amendment
- 4) Statutory Authority: Implementing and authorized by the Illinois Forestry Development Act [525 ILCS 15].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to clarify which elements of the program are mandatory requirements and which are merely recommendations for good forestry management and also to correct abbreviations.
- 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 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: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

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Javonna Ackerman, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/557-0126

- 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: July 2017

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

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER d: FORESTRYPART 1537
FOREST MANAGEMENT PLAN

Section

1537.1	Definitions
1537.2	Forest Management Plan Development
1537.5	Eligibility
1537.6	Cover Page and Certification Form
1537.10	Property Location and Description
1537.12	Goals and Objectives
1537.15	Maps
1537.18	Soils Information
1537.20	Stand Description and Analysis
1537.21	Stand Practices
1537.25	Harvest Schedule Projected 10 Years (Repealed)
1537.30	Reforestation and Afforestation (Repealed)
1537.35	Afforestation Plan (Repealed)
1537.38	Conservation Opportunities, Constraints and Concerns
1537.40	Forest Regeneration (Repealed)
1537.42	Recreational Use and Aesthetics
1537.45	Soil and Water Conservation Goals (Repealed)
1537.50	Forest Wildlife Habitat Enhancement (Repealed)
1537.55	Protection Measures (Repealed)
1537.60	Management Practice Activity Schedule
1537.65	An Estimate of the Practice Costs (Repealed)
1537.70	Forest Management Plan Approval (Repealed)
1537.71	Plan Review
1537.72	Cancellation Process
1537.75	Appeals
1537.80	Annual Review Process (Repealed)
1537.85	Information
1537.90	Amended Plans (Repealed)
1537.EXHIBIT A	Forest Management Plan Outline
1537.EXHIBIT B	The Illinois Forestry Development Act (FDA) "Forest Management Plan

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Certification"

AUTHORITY: Implementing and authorized by the Illinois Forestry Development Act [525 ILCS 15].

SOURCE: Adopted and codified at 8 Ill. Reg. 8732, effective June 6, 1984; amended at 9 Ill. Reg. 14278, effective September 5, 1985; amended at 14 Ill. Reg. 18222, effective October 29, 1990; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 41 Ill. Reg. 4306, effective March 31, 2017; amended at 41 Ill. Reg. _____, effective _____.

Section 1537.1 Definitions

"Advance Regeneration" – tree seedlings and saplings established and growing in the forest understory.

"Afforestation" – the establishment of forest trees by planting or seeding an area not previously forested.

"Basal Area" or "BA" – a measurement of the cross-sectional area of a tree, taken at breast height (4½ ft.); a term commonly used as a measure of forest density and expressed in square ft./acre.

"Base Cost" – the estimated total cost of work for a practice based on the market.

"Cancel" – the act of an IDNR Forester cancelling a timber grower's Plan and enrollment in the Program due to:

sale of property;

failure to follow or implement prescribed [required](#) practices;

failure to adhere to 17 Ill. Adm. Code 1536; or

due to a timber grower performing or advocating any act or effort that damages, hinders or destroys forest land or forest resources in the FDA Program.

Cancellation removes a timber grower from the Program, thus precluding any

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benefits of the FDA Program, including preferential property tax assessment levels guaranteed by the program.

"Compatible Forestry Use" – lands not having productive forest, but that are permanent natural features or land uses that facilitate, compliment or enhance natural wildlife habitat, natural resource conservation or environmental or site quality, such as a rock outcropping, open wetland, natural grassland, firebreak, food plot or pond.

"Contiguous" – continuing without interruption by a nonforestry land use.

"DBH" or "Diameter at Breast Height" – the diameter of a tree's trunk measured at 4½ feet above ground level on the uphill side.

"Desirable Species" – native or adapted forest trees, shrubs and herbs having desirable attributes as forest products and habitat.

"FDA" means the Illinois Forestry Development Act [525 ILCS 15].

"Flat Rate Payment" – a lump sum cost-share payment to a timber grower to cover a portion of the cost of a successfully completed practice, according to 17 Ill. Adm. Code 1536 and the Program Agreement.

"Forest" – a biological community whose dominant vegetation is trees.

"Forestry Best Management Practices" or "BMPs" – practical and economically achievable practices for preventing or reducing nonpoint source pollution.

"~~Forest~~Forestry Management Plan" or "Plan" – a written forest management planning document required of an entity entering the Program described in 17 Ill. Adm. Code 1536 and prepared by a timber growers, professional forester or natural resource manager to guide and direct the use and management of a forest property according to the FDA, this Part and 17 Ill. Adm. Code 1536. The Plan must be certified by the IDNR Forester.

"IDNR Forester" – an employee of the Department of Natural Resources, Division of Forest Resources, who is designated by position title as Forest Management Program Manager, Regional Forestry Administrator, Forestry Natural Resource Specialist or Natural Resource Advanced Specialist.

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"Practice" – specific activities prescribed to be completed in an effort to improve or enhance the health, composition, quality, regeneration and growth of forests.

"Program" means the Forestry Development Cost-share Program authorized by the FDA and implemented at 17 Ill. Adm. Code 1536.

"Reforestation" – the re-establishment of forest cover by natural or artificial means on areas recently or historically supporting forest cover.

"Regeneration" – the renewal of a tree crop by natural seeding, sprouting, planting, harvesting or other methods; also includes young trees that will develop into the future forest.

"Silviculture" – the art, science and practice of establishing, tending and regenerating forest stands for the production of goods and services; the theory and practice of controlling forest establishment, composition and growth.

"Special Sites" – sites offering unique historical, archaeological, cultural, geological, biological or ecological characteristics.

"Stand" – a group of trees that, because of their similar age, condition, composition, management history and soil characteristics, are logically managed together as a single unit.

"Stocking" – a function of the number of trees, basal area and quadratic mean diameter per acre in a specific forest area compared to the optimal level to best achieve management objectives. Stocking may be expressed as a percentage or in relative terms such as understocked, fully stocked or overstocked.

"Timber" – trees, standing or felled, and parts of trees, that are capable of attaining a size and form that allows the trees to be sawn into usable lumber products, excluding Christmas tree plantations and woody crops raised primarily or exclusively for use as firewood or biomass.

"Timber Grower" – the owner, tenant or operator of land in this State who has an interest in, or is entitled to receive any part of the proceeds from, the sale of timber grown in this State and includes persons exercising authority to sell timber.

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"Timber Stand Improvement" or "TSI" – a combination of intermediate cultural treatments designed to improve the growth, condition and composition of the forest.

"Treatment" – the act or effort of performing and successfully completing a practice or a combination of practices included in the Plan.

"Tree Shelter" – a constructed or commercially purchased shelter that is at least 4' in height designed to protect a tree from wildlife damage and/or enhance growth. Tree shelters must conform to 17 Ill. Adm. Code 1536.65(c)(1).

"Wetlands" – those areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1537.12 Goals and Objectives

A timber grower's goals or objectives regarding management of the forest or land and any natural resource concerns must constitute a section of the Plan and must be compatible with the FDA, this Part and 17 Ill. Adm. Code 1536. The FDA program participation requires the production of timber as an ongoing ~~goal~~[objective](#). Specific stand recommendations [and requirements](#) in the Plan are to be based on the goals, objectives or concerns stated in that section of the Plan. Management goals, objectives or concerns stated in that section should be clear, time specific, achievable and expressed in terms that are measurable.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1537.20 Stand Description and Analysis

- a) A description is required for each forest stand regardless of size in acres. The information and data must be described and interpreted in detail and include all items listed in Section 5 of Exhibit A for each forest or reforestation stand.
- b) **Systematic Inventory**
A systematic inventory of each forest stand must be conducted and must include all forest trees of 2 inch diameter or larger.

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- 1) For each forest stand under 10 acres, data may be collected through any valid systematic or professional methodology [agreed upon by the IDNR Forester](#).
- 2) Each forest stand 10 acres or greater requires that a detailed forest inventory be conducted. Inventory data must be analyzed by statistically sound software programs or hand calculation based on forest measurement principals. Inventory-analysis programs must be approved by the IDNR Forester. Criteria for forest inventory accuracy are $\pm 10\%$ of the basal area/acre and $\pm 10\%$ of the volume/area using a 90% statistical confidence level.
- c) Copies of inventory plot data and field notes must be delivered to the IDNR Forester for review upon request. The IDNR Forester will determine if all of the required inventory data meets accuracy requirements. Forestry inventory data is considered valid for 10 years from the growing season it was recorded. Use of older data is not allowed unless specifically approved in writing by the IDNR Forester in advance of Plan preparation.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1537.21 Stand Practices

A detailed narrative description and interpretation of recommended and required silvicultural practices based on the designated silvicultural system and stand specific objectives is required for each forest or reforestation stand regardless of size in acres. Silvicultural treatments or prescriptions should be integrated with timber grower objectives and management of surrounding stands. Recommendations and information must include all practices required for the following 10 years and include all items listed in Section 6 of Exhibit A.

- a) Timber harvest ~~prescriptions~~[recommendations](#) must achieve goals of the silvicultural system for forest regeneration and the Plan. [Harvest prescriptions and harvest recommendations](#) must include strategies to assure timely regeneration of forest stands. Forest practices that establish advanced regeneration prior to harvest are considered a priority to the Division of Forest Resources. A timber harvest projection must be made if a harvest is not ~~prescribed~~[recommended](#) in the 10 year schedule. All timber harvesting activities must adhere to the laws of Illinois and follow the Illinois Forestry Best

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Management Practices (BMPs). A copy of the BMPs (June 2007, or most current version) is available on the University of Illinois, Southern Illinois University and IDNR websites.

- b) Reforestation and afforestation practices must address site preparation, planting methods, vegetation control, species selection, species quantities, spacing and planting design. FDA Certification may be cancelled in accordance with Section 1537.72 if the reforestation is not completed by the second planting season, unless delayed due to circumstances beyond the control of the timber grower.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1537.42 Recreational Use and Aesthetics

- a) Recreation and aesthetic use and visual quality considerations that are compatible with forestry practices, goals and objectives are encouraged. Intensive uses such as commercial campgrounds, off-road vehicle parks, or similar endeavors are not permitted. Passive and/or nonintensive recreational and aesthetic activities that may produce revenue are allowed.
- b) Air, soil and water quality conservation must consider soils, topography and riparian areas when choosing silvicultural treatments and practices. Measures to reduce and stabilize soil erosion shall be included. Implementation Recommendations must adhere to federal, State, county and local laws and regulations.
- c) Wetlands described in the Plan must be conserved and considered when choosing silvicultural treatments and practices. Ecological values of conserving wetlands and forested wetlands shall be discussed.
- d) Fish, wildlife and biodiversity habitat practices that enhance terrestrial and aquatic species should be integrated into the Plan. Prescriptions Recommendations should be consistent with the Illinois Wildlife Action Plan.
- e) Forest health and protection concerns are to be integrated into stand prescriptions recommendations and practices. Forest health threats or conditions must be addressed, as well as appropriate procedures to detect and adjust management for significant biological and environmental concerns.

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- f) Threatened and endangered plant and animal species, as well as special cultural, historical and archaeological resources, must be identified to the extent possible by consulting the Ecological Compliance Assessment Tool (EcoCAT) inventory database available on the IDNR website, through field observations and via communication with timber growers and natural resource specialists. Management recommendations [and requirements](#) for rare, threatened or endangered species must be discussed with qualified experts and, if a federally listed species requiring habitat protection or special Illinois cultural sites exist, the Plan will be adjusted.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1537.60 Management Practice Activity Schedule

All Plans must include a table of the recommended and [required](#) prescribed forestry practices to include all items listed in Section 8 of Exhibit A. [Recommended practices shall be listed immediately preceded by the word optional.](#)

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1537.72 Cancellation Process

- a) If a timber grower or property under a Plan is found to be out of compliance for the reasons stated in subsection (b), the Plan may be cancelled or put on probationary status. The timber grower will be notified in writing regarding the specific problems resulting in the cancellation and will be given up to ~~45~~³⁰ days to respond. Probation may allow up to one year to comply with existing, new or modified schedules of management practices approved by the IDNR Forester. If the timber grower is found to be out of compliance for the reasons stated in subsection (c), the Plan will automatically be cancelled.
- b) The Plan will be cancelled or placed on probationary status if the timber grower fails to:
- 1) follow the requirements outlined in the Plan;
 - 2) protect the land from domestic livestock grazing and fire, unless prescribed in the Plan;

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- 3) submit the written statement required by Section 1537.71;
 - 4) successfully afforest/reforest required planting sites by the second available planting season, unless delayed due to circumstances beyond the control of the timber grower;
 - 5) follow Illinois Forestry BMPs during harvest operations.
- c) The Plan will be automatically cancelled for the following reasons:
- 1) the timber grower requests to be removed from the FDA Program;
 - 2) the timber grower no longer meets the minimum criteria or eligibility for certification, except for active, grandfathered parcels;
 - 3) the property is sold or transferred, unless the subsequent timber grower assumes the existing Plan;
 - 4) death of the timber grower, unless the subsequent timber grower assumes the existing Plan;
 - 5) harvest of timber when it was not ~~prescribed~~recommended in the Plan;
 - 6) failure to follow timber harvest ~~prescriptions~~recommendations or selling trees not designated, marked or approved by the IDNR Forester;
 - 7) the timber grower fails to respond to a letter discussing probation or fails to correct problems that initiated probationary status in the time allowed.
- d) Upon cancellation of a Plan, the Illinois Department of Revenue and the county assessor will be notified quarterly in accordance with Section 10-150 of the Property Tax Code [35 ILCS 200]. If cancellation occurs within the life span of cost-shared practices, monies received by timber growers from State cost-share programs will be subject to recapture pursuant to State and federal law.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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Section 1537.EXHIBIT A Forest Management Plan Outline**I. Cover Page**

- A. Timber grower's name, address, phone number and email
- B. Plan preparer's name, address, phone number and email
- C. Plan preparation date
- D. Plan acreage
- E. Plan duration and Plan expiration date

II. Signatures and Approval Page (IFDA Certification, Exhibit B)**III. Property Location and Description**

- A. General land description
 - 1. Quarter section, section, township, range
 - 2. Name of township and county
- B. Specify how to access property (include GPS coordinates)
- C. Adjacent land use to the north, south, east and west of this property
- D. Land use and/or management history
- E. Acknowledgement of easements, legal land designations or encumbrances

IV. Forest Management Goals and Resource Concerns**V. Stand Descriptions and Analysis**

- A. Existing forestland
 - 1. Stand # and acreage
 - 2. Topographic features and aspect
 - 3. Soils
 - a. Soil mapping units
 - b. Site index
 - c. Annual timber productivity or yield (bd.ft./~~acreA.~~ or ft³/~~acreA.~~)
 - 4. Society of American Foresters cover type or IL natural community type
 - 5. Stand age class or structure
 - 6. Tree size classes and canopy position
 - 7. Invasive and/or exotic species
(Provide separate assessments for woody and herbaceous species)
 - a. Species present and relative size
 - b. Percent ground and/or canopy cover

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- c. Average number of woody stems per acre
- 8. Advanced regeneration and understory conditions
- 9. Forest inventory data (stand and stock tables)
 - a. Stand-level summary data
 - a.1. ~~Trees/acreA.~~
 - a.2. ~~Basal area/acreA.~~
 - a.3. ~~Volume/acreA.~~
 - a.4. Quadratic mean diameter (QMD) or average diameter
 - a.5. Stocking level
 - a.6. Percent stocking
 - b. Species-level summary data, by stand
 - b.1. ~~Trees/acreA.~~
 - b.2. ~~Basal area/acreA.~~
 - b.3. ~~Volume/acreA.~~
 - b.4. Average diameter
- 10. Timber quality and timber production assessment
- 11. Timber harvest and forest practices history
- 12. Active conservation practices or projects
- B. Afforestation or reforestation land (if applicable)
 - 1. Stand or field # and acreage
 - 2. Existing vegetative cover
 - 3. Topographic features and aspect
 - 4. Site limitations
 - 5. Soils
 - a. Soil mapping units
 - b. Site index
 - c. Annual timber productivity or yield (bd.ft./~~acreA.~~ or ft³/~~acreA.~~)
 - d. Soil drainage class

VI. Stand PrescriptionsRecommendations

- A. Existing forestland
 - 1. Designation and description of the silvicultural system
 - 2. Stand-specific objectives
 - 3. Narrative description of silvicultural practices and treatments necessary to achieve stand objectives and desired future conditions
 - 4. Appropriate quantified practice and treatment targets based upon stand objectives, silviculture and desired future conditions
 - a. Stocking or density

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- a.1. Basal areas to remove and retain
 - a.2. Avg. # of crop trees/~~acre~~A. to release and retain
 - a.3. Avg. # of trees/~~acre~~A. to remove and retain
 - b. Desired species composition
 - c. Desired stocking percent
 - d. Exotic/invasive species control prescriptions and required targets of treatment
 - d.1. Expected post-treatment results, including residual population structure and density for each prescribed treatment
 - e. Underplanting specifications
 - e.1. Planting stock species
 - e.2. Planting stock type, source and quantity
 - e.3. Location and spacing
 - e.4. Site preparation
 - e.5. Competing vegetation control and maintenance
 - f. Quantified wildlife habitat specifications
 - g. Advance regeneration specifications, composition and quantity
 - h. Prescribed burning specifications or plan, if applicable ([Prescribed burn plans must be submitted to the IDNR Forester prior to application for cost share assistance](#))
5. Timber harvest schedule and harvest projections
- B. Afforestation or reforestation land (if applicable)
- 1. Planting stock species
 - 2. Planting stock type, source and quantity
 - 3. Planting stock size or specifications (other than required)
 - 4. Planting method
 - 5. Site preparation specifications and cover crop needs
 - 6. Row spacing (between and within)
 - 7. Vegetation control and maintenance
 - 8. Post-planting care and management
 - 9. Minimum performance standards
 - a. Survival of planted stock per acre
 - b. Suppression of grasses and weeds

VII. Conservation Opportunities, Constraints and Concerns

- A. Recreation and aesthetics
 - 1. Address timber grower's goals and objectives

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2. Visual impacts (aesthetics) or recreational use impacts resulting from applied management activities (if any)
- B. Air, soil and water quality conservation
 1. Presence or absence of forest structure, condition and concerns affecting air, soil and water quality
 2. How the affecting condition can be maintained or modified to have positive influence on the air, soil and water conservation
 3. Prescribe site-specific Illinois Forestry Best Management Practices necessary to conserve soil and water quality
- C. Wetland protection
 1. Presence and location of possible wetlands on the property; the Plan is not an official determination of wetlands
 2. Management activities necessary to protect streams, ponds or wetlands
 3. Prescribe site-specific Illinois Forestry Best Management Practices necessary to conserve wetland functions and features
- D. Fish, wildlife and biodiversity
 1. Address timber grower's specific goals and objectives
 2. Consistent with IDNR State Wildlife Action Plan (available on the IDNR website)
- E. Forest health and protection
 1. Detection and/or management of existing and imminent insects and diseases
 2. Implications of relevant or existing invasive/exotic species
 3. Physical or environmental threats or damage
 4. Livestock management and/or exclusion recommendations if applicable
- F. Threatened and endangered (T&E) species
 1. Search Ecological Assessment Tool (EcoCAT) database, available on the IDNR website
 2. Explain records or facts of existing and likely T&E species
 3. Management implications or constraints of existing T&E species
 4. Management for federally listed species requiring habitat protection
- G. Identify and protect special sites
 1. Summarize findings from field reconnaissance with regard to special sites (unique historical, archaeological, cultural, geological, biological or ecological characteristics)
 2. Provide protection and mitigation measures from planned forest management activities for documented special sites

VIII. Practice Schedule (of all prescribed forest management ~~required forestry~~ practices)

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- A. List the practices planned for each stand for the next 10 years; list these practices in priority order; use a table format
- B. Use one table row for each unique treatment in order of treatment priority
- C. Include the following information under column headings
 1. Year practice prescribed
 2. Stand
 3. Treatment description
 4. NRCS practice code
 5. Treatment units
 6. IFDA requirement? (yes or no)
 7. ~~Proposed completion date~~ ~~Estimate of actual practice cost~~
 8. ~~IFDA cost share rate for practices~~
 9. ~~Deadline for practice initiation and completion~~
- D. Practices that are recommended for good forest management but not required shall be listed, preceded by the word optional

IX. Considerations Specific to the Forest Development Cost-Share Program

- A. Plan entitlements for timber grower or subsequent timber growers
 1. Eligible for technical assistance from the IDNR Forester
 2. Eligible for IDNR nursery stock, pending availability
 3. Eligible for cost-share funds to help implement planned practices
- B. Plan requirements of timber grower or subsequent timber growers
 1. Afforested/reforested area must maintain a minimum stocking level of 300 live, desirable trees/~~acre~~ during establishment
 2. Repay all cost-share monies if Plan is cancelled
 3. Never remove IDNR nursery stock with the roots attached
 4. Timber harvest marking or operations will be only as approved by the IDNR Forester
 5. Modify the Plan or practices within the Plan period only with approval of both the timber grower and IDNR Forester, and documented in writing
 6. Return biennial review letter to maintain enrollment in IFDA Program
 7. Protect Plan acreage from wildfire
 8. Exclude any Plan acreage accessible to livestock unless approved in the Plan
 9. To implement this Plan according to the practice schedule and not contingent upon State or federal funding

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

10. Notify IDNR within 30 days of address or ownership changes

X. Plan Maps (copy-ready on 8.5 x 11 inch paper)

- A. Property map
 1. North arrow and legend
 2. Map with timber grower name, township, county and scale
 3. Depict property and stand boundaries, roads, fields, water and features
 4. Aerial photo having minimum scale of 1" = 660' or 1:7920
 5. Large properties may adjust scale to fit 8.5 x 11 inch paper
 6. GPS coordinates
- B. Soils map
 1. North arrow and legend
 2. Map with timber grower name, township, county and scale
 3. Forest areas and soil mapping units, roads, fields, water and features
 4. Aerial photo having minimum scale of 1:16,000 or larger
 5. GPS coordinates

XI. Appendices

- A. Glossary of technical terminology
- B. Documents cited in the body of the Plan
- C. Forest inventory data, output or report

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Access to Records of the Department of Human Rights
- 2) Code Citation: 2 Ill. Adm. Code 926
- 3) Section Number: 926.220 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and the Freedom of Information Act [5 ILCS 140], and authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A)].
- 5) Effective Date of Rule: August 29, 2017
- 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 rule, including any material incorporated, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 4403; April 21, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: There have not been any changes.
- 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 agreed upon by the Agency and JCAR.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendment modifies the Illinois Department of Human Rights' regulations regarding the cost for on-site training by the Training Institute in that on-site training for non-governmental, for-profit entities with more than 50 employees and not-for-profit entities with more than 50 employees will be \$1,050 for a 3-hour training session for up to 35 attendees, plus reimbursement for travel expenses,

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while the cost for on-site training for non-governmental, for-profit entities with 50 employees or less, will be \$500 for a 3-hour training session for up to 35 attendees, plus reimbursement for travel expenses.

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

Ngozi C. Okorafor
Chief Legal Counsel / Ethics Officer
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Suite 10-100
Chicago IL 60601

312/814-6262
866/740-3953 (TTY)

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE D: CODE DEPARTMENTS
CHAPTER X: DEPARTMENT OF HUMAN RIGHTS

PART 926

ACCESS TO RECORDS OF THE DEPARTMENT OF HUMAN RIGHTS

SUBPART A: INTRODUCTION

- Section
- 926.110 Summary and Purpose
- 926.120 Definitions

SUBPART B: GENERAL PROVISIONS

- 926.210 Investigation Records and Files
- 926.220 Training
- 926.230 Access by Government Agencies
- 926.240 Copies

SUBPART C: CLASSIFICATION OF RECORDS

- Section
- 926.310 Records that Will Be Disclosed
- 926.320 Records that Will Be Withheld from Disclosure
- 926.330 Statutory Exemptions

SUBPART D: PROCEDURES FOR REQUESTING
RECORDS FROM THE AGENCY

- Section
- 926.410 Submittal of Requests for Records
- 926.420 Information To Be Provided in Requests for Records
- 926.430 Requests for Records for Commercial Purposes

SUBPART E: AGENCY RESPONSE TO REQUESTS FOR RECORDS

- Section
- 926.510 Timeline for Agency Response

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926.520	Requests for Records that the Agency Considers Unduly Burdensome
926.530	Recurrent Requesters
926.540	Requests for Records that Require Electronic Retrieval
926.550	Denials of Requests for Records
926.560	Requests for Review of Denials – Public Access Counselor
926.570	Circuit Court Review
926.580	Administrative Review

SUBPART F: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section

926.610	Inspection and Copying of Records
926.620	Fees for Records
926.630	Reduction and Waiver of Fees

926.APPENDIX A Fee Schedule for Duplication and Certification of Records

AUTHORITY: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140], implementing Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A)] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Access to Records rules adopted November 17, 1975, by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendment 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 7 Ill. Reg. 7940, effective July 1, 1983; repealed by operation of law October 1, 1984; new rules adopted at 8 Ill. Reg. 20678, effective October 10, 1984; amended at 18 Ill. Reg. 512, effective January 4, 1994; expedited correction at 20 Ill. Reg. 7559, effective January 4, 1994; amended at 22 Ill. Reg. 1346, effective December 29, 1997; amended at 26 Ill. Reg. 17212, effective November 18, 2002; amended at 33 Ill. Reg. 16809, effective November 25, 2009; amended at 34 Ill. Reg. 16393, effective October 8, 2010; old Part repealed at 39 Ill. Reg. 9327 and new Part adopted at 39 Ill. Reg. 9330, effective June 24, 2015; amended at 41 Ill. Reg. 11555, effective August 29, 2017.

SUBPART B: GENERAL PROVISIONS

Section 926.220 Training

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENT

- a) Illinois Department of Human Rights Institute for Training and Development (Training Institute) provides training to governmental as well as to non-governmental entities. The Training Institute course offerings may be found at www2.Illinois.gov/dhr.
- b) A request for training may be submitted by telephone, via mail or via e-mail to the Department's Training Institute. The request should state the course desired, the number of anticipated participants in the training and the name of the contact person. The Department's Training Institute will respond to the request for training by providing the cost of training and dates when Department staff is available.
- c) The Effective January 1, 2010, the cost for on-site training for non-governmental, for-profit entities with more than 50 employees, regardless of the number of employees, and not-for-profit entities with more than 50 employees will be \$1,050 for a 3-hour training session for up to 35 attendees, plus reimbursement for travel expenses. The cost for on-site training for non-governmental, for-profit entities with 50 employees or fewer will be \$500 for a 3-hour training session for up to 35 attendees, plus reimbursement for travel expenses. The Training Institute will charge \$5 for each person over 35 attendees. The entity seeking training shall send its payment in the form of certified check, money order or cashier's check payable to "Illinois Department of Human Rights", along with confirmation of the scheduled training date to Illinois Department of Human Rights, Institute for Training and Development, 100 West Randolph Street, Suite 10-100, Chicago IL 60601. The Department may cancel the training if payment is not received 5 business days prior to the scheduled training date.
- d) Open-to-the-public training sessions, training for governmental entities and training for not-for-profit entities with 50 or fewer employees are each provided free of charge.

(Source: Amended at 41 Ill. Reg. 11555, effective August 29, 2017)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

- 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>Adopted Actions:</u>
2520.40	Amendment
2520.573	Amendment
- 4) Statutory Authority: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] 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 Rules: August 29, 2017
- 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, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 4408; April 21, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: There have not been any changes.
- 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 agreed upon by the Agency and JCAR.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments will allow the Department to develop a pilot project providing procedures for the initiation of electronic filing of documents concerning the Department's charges and investigation of charges.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

Ngozi C. Okorafor
Chief Legal Counsel/Ethics Officer
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Suite 10-100
Chicago IL 60601

312/814-6262
866/740-3953 (TTY)

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

DEPARTMENT OF HUMAN RIGHTS

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)
2520.415	Mediation
2520.420	Maintenance of Records (Repealed)
2520.430	Investigation
2520.440	Fact-Finding Conference
2520.450	Administrative Closure (Repealed)

DEPARTMENT OF HUMAN RIGHTS

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2520.460	Determination After Investigation (Repealed)
2520.470	Conciliation (Repealed)
2520.480	Complaint (Repealed)
2520.490	EEOC Dual Filed Charges

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

2520.660 Promotion of Communication and Goodwill

SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

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 EEO/AA Performance Reviews
2520.797 Sanctions for Noncompliance

SUBPART I: SEXUAL HARASSMENT IN HIGHER EDUCATION POLICIES

Section

2520.810 Posting of Sexual Harassment Policies
2520.820 Notice to Show Cause

2520.APPENDIX A Contents of Affirmative Action Plans
2520.APPENDIX B Value Weight Assignment Chart (Repealed)
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.

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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; amended at 31 Ill. Reg. 12319, effective August 8, 2007; amended at 31 Ill. Reg. 14815, effective October 19, 2007; amended at 32 Ill. Reg. 13482, effective August 1, 2008; amended at 33 Ill. Reg. 11311, effective July 20, 2009; amended at 33 Ill. Reg. 17086, effective December 4, 2009; amended at 34 Ill. Reg. 11413, effective July 20, 2010; amended at 36 Ill. Reg. 8699, effective June 1, 2012; amended at 38 Ill. Reg. 9481, effective April 21, 2014; amended at 39 Ill. Reg. 5601, effective April 6, 2015; amended at 41 Ill. Reg. 11560, effective August 29, 2017.

SUBPART A: INTERPRETATIONS

Section 2520.40 Filing with the Department

- a) Documents required to be filed with the Department shall be deemed filed when received, if hand-delivered, ~~or~~ telefaxed, or electronically submitted pursuant to an Electronic Filing Pilot Project (see subsection (b)), except that requests for review filed pursuant to Section 2520.573 ~~of this Part~~, replies to requests for review and surreplies to replies filed pursuant to Section 2520.583 ~~of this Part~~, and requests for extensions of time to file those such pleadings and responses pursuant to Section 2520.580 ~~of this Part~~ may not be telefaxed. An item delivered by the U.S. Postal Service shall be deemed to have been filed when postmarked, properly addressed and posted for delivery. An item delivered by a private delivery service shall be deemed to have been filed on the date sent as indicated on the label, or in the absence of such a date on the label, shall be deemed filed on the date received.
- b) The Department may develop an Electronic Filing Pilot Project authorizing electronic filing and use of electronic signatures. The Electronic Filing Pilot Project may designate the procedures for electronic filing, including, but not limited to, the types of cases, types of documents, size of documents and format.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

The Department shall post the Electronic Filing Pilot Project policy on its website and make the policy available in writing, if requested. An item submitted by electronic communication pursuant to the Department's Electronic Filing Pilot Project shall be deemed to have been filed on the date received by the Department's electronic communication system, unless it is submitted on a Saturday, Sunday or legal State holiday, in which case, it is deemed filed on the following business day.

(Source: Amended at 41 Ill. Reg. 11560, effective August 29, 2017)

SUBPART F: REQUESTS FOR REVIEW

Section 2520.573 Filing with Chief Legal Counsel

For charges filed on or after January 1, 1996 and before January 1, 2008:

- a) A Complainant may request review by the Chief Legal Counsel of a determination by the Director to dismiss one or more allegations of a charge for:
 - 1) lack of substantial evidence;
 - 2) lack of jurisdiction;
 - 3) failure of a Complainant to proceed; or
 - 4) failure of a Complainant to accept a settlement offer.
- b) A Respondent may request review by the Chief Legal Counsel of a decision by the Director to issue a notice of default.
- c) Any request for review must be filed with the Chief Legal Counsel at the Department's Chicago office within 30 days after receipt of the Department's notice of the decision. The Department's Electronic Filing Project (see Section 2520.40(b)) shall not apply to this Section.
- d) Neither the parties nor the Department may communicate directly or indirectly with the Chief Legal Counsel or staff attorney assigned to a request for review in connection with any issue, except in writing with copies to all parties and the Department.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

- e) If resources permit, the Chief Legal Counsel shall not assign a request for review to the staff attorney who has conducted the substantial evidence review. The Chief Legal Counsel shall have sole discretion over assignment of requests for review.
- f) Proceedings on requests for review shall toll the time limitation established in Section 7A-102(G)(1) or Section 7B-102(G) of the Act from the date on which the Director's notice of dismissal or default is issued to the date on which the order of the Chief Legal Counsel of the Department is entered.

(Source: Amended at 41 Ill. Reg. 11560, effective August 29, 2017)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Inter-Track Wagering Facilities
- 2) Code Citation: 11 Ill. Adm. Code 435
- 3) Section Number: 435.110 Adopted Action:
Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rule: September 1, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporation by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's central office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 5789; May 26, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? 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 letter issued by JCAR? No changes were made.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending in this Part? No
- 15) Summary and Purpose of Rulemaking: Pursuant to Executive Order 2016-13, the Board is conducting a systematic review of its administrative rules. The amendment proposed requires all persons licensed by the Board at an inter-track wagering facility to carry on their person their photo identification badge at all times. This is consistent with current Board regulations regarding stable employees.
- 16) Information and questions regarding this adopted rule shall be directed to:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago IL 60601

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER b: RULES APPLICABLE TO ORGANIZATION LICENSEES

PART 435
INTER-TRACK WAGERING FACILITIES

Section

435.10	Definitions (Repealed)
435.20	Application for Inter-Track Wagering License
435.30	Board Approval of an Application
435.40	Penalties and Conditions
435.50	Board Office
435.60	Simulcast Requirements (Repealed)
435.70	Audio Transmission (Repealed)
435.80	Inter-Track Wagering Pools (Repealed)
435.90	Announcing the Close of Wagering (Repealed)
435.100	Pari-Mutuel Wagering (Repealed)
435.110	Licensing of Employees
435.120	Concessionaire License
435.130	Prohibited Practices by Employees
435.140	Customer Relations (Repealed)
435.150	Duties of Organization Licensee (Repealed)
435.160	Duties of Inter-Track Wagering Facility (Repealed)

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

SOURCE: Emergency rules adopted at 12 Ill. Reg. 6805, effective March 23, 1988, for a maximum of 150 days; adopted at 12 Ill. Reg. 11235, effective June 20, 1988; amended at 16 Ill. Reg. 13073, effective August 10, 1992; amended at 19 Ill. Reg. 13914, effective October 1, 1995; amended at 36 Ill. Reg. 325, effective January 1, 2012; amended at 41 Ill. Reg. 11568, effective September 1, 2017.

Section 435.110 Licensing of Employees

- a) ~~All persons performing~~ No person shall perform any work or services ~~at which are conducted in whole or in part on the grounds of~~ an inter-track wagering facility

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~~shall be licensed without first obtaining a license issued~~ by the Board. All persons shall carry their photo identification badge on their person, within the facility, at all times. This~~No provisions of this Section does not~~ shall apply to any persons employed as a pari-mutuel clerk, parking attendant, security guard or employee of concessionaire.

- b) Licensing of persons pursuant to this Section ~~is shall in all respects not specified herein be~~ governed by the provisions of 11 Ill. Adm. Code 502, Subparts A, B and C.
- e) ~~The Board shall require all persons licensed pursuant to this Section who routinely come in contact with the public to display an identification badge on their outer garment during the course of their employment.~~

(Source: Amended at 41 Ill. Reg. 11568, effective September 1, 2017)

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- 1) Heading of the Part: Jockeys, Apprentices, Jockey Agents, and Valets
- 2) Code Citation: 11 Ill. Adm. Code 1411
- 3) Section Number: 1411.120 Adopted Action:
Repealed
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rule: September 1, 2017
- 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 rule, including any material incorporated by reference, is on file in the Agency's central office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 5800; May 26, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? 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 letter issued by JCAR? No changes were made.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending in this Part? No
- 15) Summary and Purpose of Rulemaking: Pursuant to Executive Order 2016-13, the Board is conducting a systematic review of its administrative rules. The amendment proposed intends to repeal an obsolete requirement placed on jockeys. With the constant movement of jockeys from racetrack to racetrack, the proposal reduces an outdated regulatory burden and conforms to current industry practice.
- 16) Information and questions regarding this adopted rule shall be directed to:

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Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 5-700
Chicago IL 60601

312/814-5017
Mickey.ezzo@illinois.gov

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

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TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING
(THOROUGHBRED)

PART 1411

JOCKEYS, APPRENTICES, JOCKEY AGENTS, AND VALETS

Section

1411.5	Colors Worn by Riders
1411.10	Jockey Fees (Repealed)
1411.20	Paying Fines
1411.30	Jockey Ownership of Horse
1411.40	Under Suspension
1411.50	Betting By Jockey
1411.60	Record of Jockey Betting
1411.65	Interrogation by Stewards
1411.70	Racing Against Employer's Starter
1411.72	Spouses Riding Against Each Other (Repealed)
1411.75	Owner or Trainer As Spouse
1411.78	Racing Against Agent's Horse
1411.80	Priority of Retainers
1411.90	Conflicting Claims on Jockeys
1411.100	Riding Crops and Other Equipment
1411.110	Illegal Whipping (Repealed)
1411.120	Leaving Operating Track (Repealed)
1411.130	Jockey Rules Apply to Apprentices
1411.140	Apprentice Rule
1411.150	Change of Agent
1411.160	Rough or Careless Riding
1411.170	Yearly Examination
1411.180	Examination Because of Illness
1411.190	Jockey's Valet
1411.195	Valet's Fees (Repealed)
1411.200	Record of Jockey Engagements by Agent
1411.210	Falsifying Engagement Records
1411.220	Agent Barred from Paddock and Track
1411.230	Engagements Made Through Agent

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1411.240 Safety Equipment

1411.250 Designated Races

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

SOURCE: Published in Rules and Regulations of Horse Racing (original date not cited in publication); codified at 5 Ill. Reg. 10977; amended at 7 Ill. Reg. 1423, effective January 24, 1983; amended at 17 Ill. Reg. 12426, effective July 15, 1993; amended at 17 Ill. Reg. 21852, effective December 3, 1993; amended at 18 Ill. Reg. 2092, effective January 21, 1994; amended at 19 Ill. Reg. 12687, effective September 1, 1995; amended at 21 Ill. Reg. 3226, effective March 4, 1997; amended at 22 Ill. Reg. 5076, effective March 1, 1998; amended at 34 Ill. Reg. 2816, effective February 12, 2010; amended at 41 Ill. Reg. 11572, effective September 1, 2017.

Section 1411.120 Leaving Operating Track (Repealed)

~~Any jockey leaving an operating race track to ride in another jurisdiction must first obtain permission from the Board of Stewards.~~

(Source: Repealed at 41 Ill. Reg. 11572, effective September 1, 2017)

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- 1) Heading of the Part: State Universities Civil Service System
- 2) Code Citation: 80 Ill. Adm. Code 250
- 3) Section Number: 250.110 Adopted Action:
Amendment
- 4) Statutory Authority: 110 ILCS 70
- 5) Effective Date of Rule: August 30, 2017
- 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 rule, 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 the *Illinois Register*: 40 Ill Reg. 12912; September 9, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The agency made three major changes to the proposed rulemaking based upon the comment received and the meetings held with university human resources and union officials. The agency eliminated the wording "without pay" in Section 250.110(b)(2); deleted proposed Section 250.110(d) regarding "job abandonment"; and deleted proposed Section 250.110(e) regarding the definition of layoff. Also, several technical changes were made because of sections being deleted.
- 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 rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: The primary change is the addition of a subsection to explain the procedures of when an employee or employer fails to appear during a scheduled discharge or demotion hearing, as well as some technical changes.
- 16) Questions or requests for information about this adopted rule shall be directed to:

Jeff Brownfield
Executive Director
State Universities Civil Service System
1717 Philo Road, Suite 24
Urbana IL 61802

217/278-3150
email: jeffb@sucss.illinois.gov

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

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS
CHAPTER VI: STATE UNIVERSITIES CIVIL SERVICE SYSTEMPART 250
STATE UNIVERSITIES CIVIL SERVICE SYSTEM

Section

250.5	Definitions
250.10	Purpose, Adoption, and Amendment of Rules
250.20	The State Universities Civil Service System and its Divisions
250.30	The Classification Plan
250.40	Military Service Preference, Veterans Preference
250.50	Examinations
250.60	Eligible Registers
250.70	Nonstatus Appointments
250.80	Status Appointments
250.90	Probationary Period
250.100	Reassignments and Transfers
250.110	Separations and Demotions
250.119	Furloughs
250.120	Seniority
250.130	Review Procedures
250.140	Delegation of Authority and Responsibilities
250.150	Training
250.160	Suspension of Rules

AUTHORITY: Implementing and authorized by the State Universities Civil Service Act [110 ILCS 70].

SOURCE: Rules: State Universities Civil Service System, approved January 16, 1952, effective January 1, 1952; amended at 3 Ill. Reg. 13, p. 68, effective April 1, 1979; amended at 4 Ill. Reg. 10, p. 262, effective February 25, 1980; amended at 6 Ill. Reg. 2620, effective February 22, 1982; amended at 6 Ill. Reg. 7236, effective June 3, 1982; amended at 8 Ill. Reg. 4948 and 4950, effective March 29, 1984; codified at 8 Ill. Reg. 12936; amended at 8 Ill. Reg. 24732, effective December 6, 1984; amended at 9 Ill. Reg. 17422, effective October 23, 1985; amended at 11 Ill. Reg. 8942, effective May 8, 1987; amended at 12 Ill. Reg. 3457, effective February 1, 1988; amended at 12 Ill. Reg. 17079, effective October 7, 1988; amended at 13 Ill. Reg. 7324, effective May 1, 1989; amended at 13 Ill. Reg. 19427, effective February 6, 1990; amended at 18 Ill. Reg.

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1901, effective January 21, 1994; amended at 20 Ill. Reg. 4440, effective February 29, 1996; amended at 30 Ill. Reg. 17384, effective October 23, 2006; amended at 31 Ill. Reg. 15848, effective November 13, 2007; amended at 32 Ill. Reg. 17268, effective October 16, 2008; amended at 33 Ill. Reg. 11644, effective July 22, 2009; amended at 36 Ill. Reg. 6014, effective April 6, 2012; amended at 37 Ill. Reg. 419, effective December 26, 2012; amended at 39 Ill. Reg. 13504, effective December 1, 2015; amended at 40 Ill. Reg. 3105, effective January 26, 2016; emergency amendment at 40 Ill. Reg. 3772, effective March 1, 2016, for a maximum of 150 days; amended at 40 Ill. Reg. 11192, effective August 4, 2016; amended at 40 Ill. Reg. 16302, effective December 12, 2016; amended at 41 Ill. Reg. 11576, effective August 30, 2017.

Section 250.110 Separations and Demotions

- a) Resignation. An employee having a nonstatus or status appointment, as described in Sections 250.70 and 250.80, may resign by presenting a signed resignation to his/her employer or by demonstrating to the employer by other means his/her intent to separate from employment. Upon receipt of a signed resignation by the employee or other evidence of intent to separate from employment, the employee will be separated from his/her employer employment. The employer shall maintain all resignations or other documentation of evidence in accordance with the employer's record retention policy. ~~The Executive Director shall be notified promptly by the employer of all resignations.~~
- b) Leave of Absence
 - 1) Leave of Absence for Classification Changes. A status employee who accepts a position that represents a promotion in a class outside his/her promotional line shall be granted a leave of absence from a position of his/her former class for the duration of any intern appointment, provisional appointment, and/or probationary period in the new class.
 - 2) Leave of Absence for Disciplinary Actions. An employee placed on a Disciplinary Suspension or on a Suspension Pending Discharge shall be placed on a leave of absence from his/her position.
 - 3) Leave of Absence for Disability Leave
 - A) If an employee is no longer able to perform the duties and responsibilities of his/her position in the class due to a disability as determined by the employer's medical and/or psychological

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evaluation procedures, and/or in accordance with State and federal [law](#), the employee will be required to take disability leave in accordance with subsection (b)(3)(B).

- B) A status employee who becomes eligible for disability benefits to be paid by the employer or, as later determined, by the Illinois State retirement system to which the employee contributed, or becomes eligible for payment benefits as defined by the Workers' Compensation Act [820 ILCS 305], the Illinois Occupational Diseases Act [820 ILCS 310], or a State self-insurance program, shall be granted a disability leave. The disability leave shall be the period for which the employee applies for such benefits, until the time of the expiration of the benefits or a final administrative decision denying or terminating the benefits, including any gap in benefit payments between the expiration of institutional benefits and those available under the approving authority.
- C) The employer may require an employee to take a medical and/or psychological examination prior to returning to work after a disability leave. The examination shall be conducted by a licensed practitioner selected by the employer to determine the physical and/or mental capability to perform the essential duties of the employee's position. The employer may supply the examining practitioner with facts relating to the employee's difficulty or inability to perform the essential functions of the job and may supply additional information, including but not limited to physical and mental requirements of the employee's position, duty statement, job classification specification, and position description. The employee may also present an alternative opinion provided by a licensed practitioner to be selected and paid for by the employee. If there is a difference of opinion, a third outside practitioner shall be selected by the two physicians. The employer shall pay for all examinations, except those initiated by the employee.
- D) An employee's refusal to submit to an examination as described in subsection (b)(3)(C), the unexcused failure to appear for such an examination, or the refusal to release the results of the examination may be deemed by the employer as an acknowledgement that the employee is not fit for duty and may subject the employee to

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termination actions as defined in subsection (c).

- E) A disability leave may be revoked by the employer upon evidence that the cause for granting the leave was misrepresented.
- F) At the expiration of all disability benefits, an employee shall be entitled to return to a position in his/her class without any loss of status due to the disability leave, providing that he/she returns upon the expiration of all disability benefits to which entitled.
- G) Reemployment
 - i) If an employee does not return to work at the expiration of all disability benefits and is terminated in accordance with subsection (c)(2), the employee may, within one year following the expiration of all disability benefits, request reinstatement and, upon approval of the Executive Director, the employee's name may be placed on the reemployment register in the class in which he/she was employed at the time the disability leave was granted and in accordance with total seniority earned.
 - ii) If, within one year following the expiration of all disability benefits, the employee requests reinstatement, but, because of his/her disability, is deemed unable to perform the duties in the class, the employee may be required to pass physical or other tests to determine employability under the University System.
- 4) Military Leave of Absence. An employee shall be granted a Military Leave of Absence in accordance with State and federal ~~laws~~law and regulations.
- 5) Notification
 - A) The employer may select:
 - i) ~~to notify the~~The Executive Director ~~shall be notified promptly by the employer~~ of all leaves of absence, including military, disability, or any other leave otherwise

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granted; or

ii) to maintain these records for inspection upon request by the Executive Director or designee during the on-site audit program or other specified time.

B) The notification shall include the beginning and ending dates of leaves that exceed 30 calendar days of non-pay status.

c) Termination

- 1) An employee having a non-status appointment, as described in Section 250.70 of this Part, may be terminated by his/her employer at any time during the training period and/or upon completion of the work assignment; ~~except for those status employees eligible for a leave of absence as defined in subsection (b)(1).~~
- 2) An employee on disability leave, as defined in subsection (b)(3), who has exhausted all of his/her disability benefits and is unable to resume the duties and responsibilities of a position in his/her class may be terminated from employment in accordance with subsection (c)(5), or, unless the employer and employee may agree upon~~agree on~~ employment in a more suitable classification. The alternative employment options shall be subject to standard civil service employment protocols.
- 3) An employee who fails to report for duty after a disability leave of absence has expired or has been denied, disapproved, revoked, or canceled by the approving authority, or any other failure to report for duty as scheduled after a disability leave of absence, may be terminated from employment in accordance with subsection (c)(5).
- 4) An employee who fails to report for duty after he or she has exhausted benefits under the Family and Medical Leave Act (FMLA) may be terminated from employment in accordance with subsection (c)(5).
- 54) Appropriate notification shall be provided to an employee, as specifically referenced in subsections (c)(2), (c)(3) and (c)(4), which will include the notification provisions outlined in this subsection (c)(5).~~This notification and review process shall only apply to subsection (c)(2) and (c)(3).~~

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- A) The employer shall notify the employee that he/she will be terminated from the employer's service to become effective 715 calendar days from the date of mailing of the notification to the employee. The notification ~~shall~~must be sent, by ~~an~~certified mail ~~or by~~ overnight delivery service that requires signature upon receipt, to the most recent address of the employee as shown on the employer's records.
- B) At any time prior to the effective date of termination, the employee shall have the opportunity to provide to the employer evidence of the reason for the unauthorized absence. The employer shall revoke the termination if the employee provides satisfactory evidence of the reason for the unauthorized absence. If the employer determines that the evidence is not satisfactory, the employer shall notify the employee immediately that the termination will remain in effect.
- C) Pursuant to Section 250.130 (Review Procedures), the employee may request a review of the employer's final notice~~Within 15 calendar days from the original date of notification of termination; the employee may request a review of the termination decision pursuant to Section 250.130 of this Part.~~ The review is limited to a determination of whether this Section has been properly applied and whether the employer's decision is deemed arbitrary or capricious. In the event a review is not requested within the allotted timeframe, the employee's termination from service shall be effective 715 days after the original notification.
- ~~5) The employer shall notify the Executive Director promptly of all terminations of employment, setting forth the reason for the termination.~~
- d) Layoff
- 1) The Executive Director shall be notified promptly of all employees on layoff status, together with the dates of the beginning of layoff and of return to employment from layoff status, when the layoff exceeds 30 consecutive work days. A status employee shall receive a written notice, at least 30 calendar days in advance of the effective date of layoff, when the layoff exceeds 30 consecutive work days; however, the effective date

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of layoff may be extended up to 15 days without the requirement of further notice.

- 2) Whenever it becomes necessary to lay off one or more employees, except as provided in subsection (d)(3), the employee who has the least amount of service in the class shall be laid off first, and additional layoffs shall be made in the ascending order of the place of the employee on the service and seniority lists for that class.
- 3) An employee who is the incumbent of a position for which the Executive Director has authorized specialized certification under Section 250.60(d)(9), or who is the incumbent of a position that has previously been identified as requiring specialized training or experience as required by the position in accordance with minimum acceptable qualifications for the class, may not be bumped by another employee with greater seniority unless the employee with greater seniority possesses the special and identified qualifications authorized for the incumbent's position.
- 4) Whenever it becomes necessary to reemploy one or more employees in a class, the employee last laid off by seniority shall be reemployed first, and further reemployment shall be made in the order of seniority until the reemployment register for that class is exhausted. Work of short duration requiring reemployment of one or more employees will not require a new written 15 day advance notice of layoff if the work period is to be 5 consecutive working days or less and the work is emergent in nature.
- 5) A status employee who is subject to layoff from a part-time position may bump an employee in a full-time status position, providing the part-time employee's equivalent full-time accrued seniority based on hours in pay status is greater than that of the least senior employee in a full-time position. A full-time status employee who is subject to layoff may bump the least senior full-time employee, who then may bump the part-time employee having the highest percent-time appointment, providing the full-time employee has more accrued seniority.
- 6) Names of employees laid off during their probationary periods shall be returned to the register from which they were certified to their position in accordance with service in a status appointment earned as of the date of layoff.

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- e) Disciplinary Suspension. An employer may suspend an employee as a disciplinary measure for not more than 30 calendar days.
- 1) The employer will discuss the specific problem pertaining to contemplated suspension with the employee and the ~~Campus~~ Human Resource Director or his/her designee before a suspension notice is served. The employee will be told at that time that suspension is being considered.
 - 2) In imposing a disciplinary suspension, the employer shall serve a written suspension notice on the employee showing reason for the suspension, and shall immediately report the suspension to the Executive Director and shall send a copy of the notice served on the employee, along with proof of service, to the Executive Director.
 - 3) Causes justifying suspension, not for discharge as provided for in subsection (f)(2), shall include, but are not limited to: unauthorized and unexcused absence; leaving work without authority; failure to ring in or out on time card; habitual lateness; punching other time cards; key duplication and/or unauthorized possession of keys; misrepresentation of absence; falsification of records; refusal to do work assigned; failure to follow work schedules; failure to follow time schedules; insolence; failure to adhere to departmental regulations of appearance; smoking in prohibited areas; disregard of safety regulations; careless workmanship resulting in spoilage, waste, or delay; unauthorized use of institutional property; gambling on institutional property; creating or contributing to unsanitary conditions; horseplay or scuffling; fighting; sleeping during working hours; unauthorized visiting; and "loafing on the job".

AGENCY NOTE: It is to be noted that an employee's allegation that a Disciplinary Suspension was unfairly imposed is subject to the grievance procedure established by the employing institution, but is not reviewable by the [State Universities Civil Service System \(University System\)](#).

- f) Discharge Proceedings and Effective Date of Discharge
- 1) Pre-discharge Proceedings
 - A) Prior to initiating any proceedings before the Merit Board for the

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discharge of an employee, the employer shall notify the employee in writing, served upon the employee in person if the employee is present on the job or, otherwise, ~~by certified mail or~~ by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, of the employer's intention to initiate the proceedings. The notification shall advise the employee of the substance of the charges proposed to be filed in sufficient detail to inform the employee of the nature of the conduct on which the proposed charges are based. The notification shall also advise the employee that either or both of the following options are available to the employee:

- i) within 3 work days after service of the employer's notification, the employee may notify the employer of his/her decision to require the employer to hold a conference with the employee or his/her representative for the purposes of responding to the matters contained in the notification and of attempting to achieve a reconciliation or understanding; and
- ii) within 3 work days after service of notification, the employee may deliver to the employer a written response to the matters contained in the employer's notification; provided that, if the employee elects to require the conference identified in subsection (g)(1)(A)(i), at that conference the employee may request and receive an opportunity to respond further in writing within 3 work days after the conclusion of the conference.

B) Employer's Decision

- i) Within 7 work days after compliance with the provisions of subsection (f)(1)(A), the employer shall either:
 - notify the employee that no further action will be taken to initiate discharge proceedings with the Merit Board against the employee based solely on the matters contained in the employer's notification;

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or

- initiate proceedings before the Merit Board under this subsection (f) seeking discharge of the employee based solely on the matters contained in the employer's notification.
 - ii) The employer's election not to initiate discharge proceedings with the Merit Board shall not preclude the employer from imposing a suspension in accordance with subsection (e) or some lesser penalty.
 - C) An employee who has been served with an employer's notification as provided in subsection (f)(1)(A) may be placed on excused absence with pay during all or any part of the period covered by this subsection (f)(1) to provide the employer an opportunity to investigate serious charges.
- 2) Actual Discharge Proceedings
- A) Proceedings before the Merit Board seeking the discharge of an employee shall be initiated by the employer by completing and filing a Written Charges for Discharge form with the Merit Board/University System, employee, legal counsel for employer, and employer, setting forth the causes for discharge in sufficient detail to inform the employee of the nature of the conduct on which the charges are based. The Written Charges for Discharge form shall be set forth in separately numbered charges. Also, the employer shall develop a document that contains The Written Charges for Discharge shall contain the dates, names of persons, places, and facts necessary to properly allege the cause for discharge. If a breach of duty, statute, or rule of the employer is alleged, the statute, law, or rule shall be cited in connection with the charge. Any and all exhibits that the employer plans to present at the time of the hearing shall be submitted in accordance with subsection (f)(11)(B) or as appropriate to the circumstances.
 - B) The Written Charges for Discharge form shall be accompanied bywith a certification by the employer that all procedures set forth

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in subsection (f)(1) have been followed and that there has been full compliance with any options elected by the employee. At the time the Written Charges for Discharge form and the certification are filed with the Merit Board/University System office, the employer shall serve copies upon the employee in person if the employee is present on the job; otherwise, service shall be ~~by certified mail or~~ by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file ~~a~~ proof of ~~the~~ service with the Merit Board/University System office.

- C) At any time prior to commencement of the hearing, the Executive Director may direct or authorize the Written Charges for Discharge to be amended to correct technical defects or to set forth additional facts or allegations related to the subject matter of the original charges. The amendments shall relate back to the original proof of service date ~~of service~~ of the Written Charges for Discharge form. The employer shall serve copies of the Amended Written Charges for Discharge form upon the employee in person if the employee is present on the job; otherwise, service shall be ~~by certified mail or~~ by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file ~~a~~ proof of ~~the~~ service with the Merit Board/University System office.
- D) An employee who has been served with Written Charges for Discharge in accordance with subsections (f)(2)(A) and (B) may be suspended without pay by the employer during all or any part of the period that the discharge proceeding is pending, and until final disposition, if the employer is of the opinion that the employee's presence on the job might constitute a substantial risk of injury to life or property, or might cause a disruptive effect on employer's operations. Any suspension without pay shall become effective on the date the employer serves the Suspension Notice Pending Discharge upon the employee, which may be served with the Written Charges for Discharge or on any date thereafter. Service shall be upon the employee in person if the employee is present on the job; otherwise, service shall be ~~by certified mail or~~ by an overnight delivery service that requires signature upon receipt to

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the most recent address of the employee as shown on the employer's records, and the employer shall file with the Merit Board/[University System office](#) a copy of the Suspension Notice Pending Discharge and proof of service.

3) Hearing Request

- A) An employee who has been served with Written Charges for Discharge may request a hearing by filing a written request for hearing with the Secretary for the Merit Board within 15 calendar days [from the "Proof of Service on Employee" section on the Written Charges for Discharge form that is after](#) the date of [either personal delivery or mailing of the Written Charges for Discharge form](#) to the employee. The Secretary for the Merit Board shall immediately notify the employer ~~that of~~ [the employee has filed for a hearing filing of the written request by the employee](#). Thereafter, further proceedings shall be as provided in this subsection (f) and any discharge shall be effective on the date of the discharge order of the Merit Board, unless otherwise expressly stated in the order.
- B) If the employee does not file a written request for hearing with the Secretary for the Merit Board within 15 calendar days [from the date specified in the Proof of Service on Employee section on the Written Charges for Discharge form](#), the employee's discharge shall become effective at the end of the 15-day period without further action by the Merit Board. The Secretary for the Merit Board shall promptly notify the employer of the employee's failure to file a timely written request for hearing.

4) Hearing Proceedings

- A) Upon receipt of the employee's written request for hearing on the Written Charges for Discharge, the Merit Board/[University System office](#) shall promptly appoint a Hearing Board or Hearing Officer to hear the charges and the employee's response. All hearings relating to discharge proceedings shall be convened by and conducted under the control of the Executive Director or his/her authorized representative. The Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all

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make good faith efforts to commence the hearing within 10 calendar days after receipt of the employee's written request for hearing, but in no event shall the hearing commence later than 45 days after service of the Written Charges for Discharge, unless a continuance is granted pursuant to subsection (f)(19)(B). Dilatory tactics or actions will not be permitted and the Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to conduct the hearings in no more than ~~3~~three hearing days, unless justice, due process, and fundamental fairness require otherwise. All hearings shall be open to the public unless, upon motion of either party, the Hearing Board or Hearing Officer finds it necessary to close the hearing or parts of the hearing in instances where personal safety is of concern or when confidential testimony/exhibits are to be referenced or revealed. There shall be a presumption that hearings will be closed only under extraordinary circumstances. A transcript of the hearing, including exhibits, shall be made and shall be filed with the Secretary for the Merit Board as soon as possible following ~~the~~ conclusion of the ~~hearing~~hearings.

- B) Within 15 calendar days after receipt of the transcript from the Secretary for the Merit Board, the Hearing Board or Hearing Officer shall file its findings of fact and any other recommendations with the Secretary for the Merit Board, unless that time is extended by the Executive Director for good cause shown. For the purpose of this Section, good cause shall include, but not be limited to: sickness, attendance at court proceedings, death, weather conditions that prevent the members from meeting. If by that time the findings of fact have not been received by the Secretary for the Merit Board, the Executive Director will either appoint another approved Hearing Board or Hearing Officer that will then review the record and submit findings of fact within 10 calendar days after the appointment, or the Executive Director will give written notice to all Hearing Board members or the Hearing Officer and to all parties to the proceeding that he or she will, within 10 calendar days, discontinue the hearing and commence a new hearing and the present Hearing Board or Hearing Officer will be dismissed without pay. Within this 10-day period following the Executive Director's notice, the Hearing Board or Hearing Officer

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can appeal to the Executive Director by showing cause why time should be extended.

- C) The Executive Director shall certify as the Hearing Record the Written Charges for Discharge, the Suspension Notice Pending Discharge, the employee's request for hearing, the transcript and exhibits, the Hearing Board's or Hearing Officer's findings of fact and other recommendations, and other documents that have been filed.
- D) Upon certification by the Executive Director, the Secretary for the Merit Board ~~shall, by an~~~~shall, by certified mail or by~~ overnight delivery ~~service~~ that requires signature upon receipt, immediately forward a copy of the Hearing Record, along with notice that the Hearing Record has been certified, to all parties of record. Any objections to the form or contents of the Hearing Record, or briefs, abstracts, or excerpts from the Hearing Record, or arguments, motions, or recommendations, relating to the hearing proceedings or the Hearing Record, or requests for further hearing or for permission to supplement further the Hearing Record by other evidence, must be filed with the Secretary for the Merit Board within 14 calendar days after the date ~~of the postmark of the certified mail notice or the mailing date~~ of the overnight delivery ~~service~~ that the Hearing Record has been certified, with proof of service on all parties. No answer or reply briefs and arguments in response to these filings will be permitted unless expressly authorized by the Executive Director or the Merit Board or its Chair.
- E) A party requesting oral argument before the Merit Board in cases of discharge must file an appropriate motion with the Secretary for the Merit Board with notice to all parties within 14 calendar days after the date ~~of the postmark of the certified mail notice or the mailing date~~ of the overnight delivery ~~service~~ of the certified ~~Hearing Record~~~~hearing record~~, with proof of service on all parties. The motion must specifically state the issues and any relevant law that will be the subject of argument. The Merit Board will grant or deny the motion at the Merit Board meeting at which oral argument is requested. Oral argument in cases of discharge will

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generally not be allowed unless novel or precedent setting questions of law or policy are at issue.

- 5) Conduct of Hearing
 - A) Pre-hearing Conference. In all hearings, it is recommended that the Hearing Board or Hearing Officer hold a pre-hearing conference immediately preceding the hearing on the first day of the hearing. The Hearing Board or Hearing Officer will give the parties an opportunity to discuss issues and share information at the pre-hearing conference that will allow them to present their cases in a fair, efficient, and timely manner. Generally, the Hearing Board or Hearing Officer will conduct the pre-hearing conference for the purpose of achieving one or more of the following points, as determined by the Hearing Board or Hearing Officer on a case by case basis:
 - i) defining and simplification of the issues;
 - ii) negotiating admissions or stipulations of fact to avoid unnecessary proof;
 - iii) reviewing each party's witness and exhibit list;
 - iv) limiting redundant witness testimony or duplication of evidentiary material, if necessary;
 - v) determining the length of time each party will need to present its case;
 - vi) exchanging exhibits; and
 - vii) discussing any matter that may aid in the efficient and timely disposition of the case.
 - B) Following the Pre-hearing Conference. The Hearing Board or Hearing Officer shall enter into the record any action taken and any agreements made by the parties as to the matters considered. The length and scope of the pre-hearing conference is at the

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discretion of the Hearing Board or Hearing Officer, but should generally be concluded within a one hour timeframe.

- 6) Order of Hearing
 - A) The Executive Director, or authorized representative, shall open and convene the hearing.
 - B) The Executive Director, or authorized representative, shall request all persons who have been asked to serve as witnesses, other than a party or employer representative, to be excluded from the hearing room while the hearing is in process, except during their own testimony and cross-examination. Except as he/she might intervene, or be requested to intervene, the Executive Director, or authorized representative, shall empower the Hearing Board or Hearing Officer to proceed with the hearing in such a manner as to provide the employer and the employee a full opportunity to present their positions to the Hearing Board or Hearing Officer.
 - C) The parties may make a brief opening statement at the beginning of the hearing. The employer will proceed first, followed by the employee. Opening statements may be waived or may be reserved and presented at the commencement of the party's case-in-chief.
 - D) The employer shall first present its case-in-chief, with an opportunity for the employee to cross-examine the employer's witnesses. The employee may be called as an adverse witness during the course of the hearing.
 - E) The employee shall then present his/her case-in-chief, with an opportunity for the employer to cross-examine the employee's witnesses.
 - F) Each party may call rebuttal witnesses if found to be necessary by the Hearing Board or Hearing Officer.
 - G) At the conclusion of the hearing, each party may make an oral closing argument. The employer may be permitted a brief rebuttal at the end of the employee's closing argument.

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- H) The hearing shall be closed when the employer and the employee have had a fair and reasonable opportunity to present their positions to the Hearing Board or Hearing Officer.
 - I) In addition, each party may submit written arguments, summary statements, and/or briefs within 10 calendar days after conclusion of the hearing. A copy of the written closing arguments must be provided to all parties of record and filed with the Executive Director, with proof of service included. Only written materials submitted within the 10 calendar day timeframe will be forwarded with the transcript of evidence [and exhibits](#) and considered by the Hearing Board or Hearing Officer, unless otherwise extended by the Executive Director.
- 7) Evidence and Motions
- A) As a general matter, the rules of evidence and privilege as applied in civil cases in the circuit courts of the State of Illinois shall be followed. However, evidence not admissible under those rules may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the investigation and conduct of serious matters of this nature. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.
 - B) All testimony shall be presented under oath or affirmation. Objections to testimony or evidentiary offers shall be noted in the record. Consistent with these requirements and in order to expedite the hearing, any part of the evidence may be received in written form, provided the interests of the parties are not jeopardized.
 - C) The standard of proof applied by the Hearing Board or Hearing Officer when evaluating the charges will be the preponderance of the evidence.

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- D) The Hearing Board or Hearing Officer may, on its own motion or upon motion of one of the parties, take notice of matters of which the circuit courts of the State of Illinois take judicial notice.
- E) The Hearing Board or Hearing Officer has the authority to rule on all motions that do not dispose of the proceedings. Examples of motions that can be ruled on by the Hearing Board or Hearing Officer are motions in limine or motions to suppress evidence. Motions directed at the Hearing Board or Hearing Officer shall be presented at the pre-hearing conference, if possible, and actions taken by the Hearing Board or Hearing Officer shall be entered into the record.
- F) Motions that dispose of the proceedings must be directed to the Merit Board. Examples of motions that are to be directed to the Merit Board are motions to dismiss, motions to decide a proceeding on the merits, or motions claiming lack of jurisdiction. Motions must be filed with the Secretary for the Merit Board within 14 calendar days after the date of the [overnight delivery service of the postmark of the](#) certified Hearing Record. Motions will be ruled on by the Merit Board at the Merit Board meeting in which the case is being considered. The filing of a motion of this nature shall not be allowed to cause any delay in the proceedings.
- G) Performance records of the employee or past disciplinary records are admissible and relevant for the purpose of mitigation or aggravation, except if otherwise excluded by a local employer policy or collective bargaining agreement.
- 8) Stipulations. Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing. It is the policy of the Merit Board to encourage stipulation of facts whenever practicable.
- 9) Evidence Depositions. Upon request to the Executive Director and upon good cause shown (which shall include, but is not restricted to, potential unavailability of a witness at the time the hearing is scheduled, scheduling or travel arrangement considerations, or agreement of the parties) any party may request a deposition of any witness to be taken for evidence in a

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hearing. If desired, subpoenas may be requested upon application to the Executive Director in a manner consistent with this Part. The deposition shall proceed in the manner provided by law for depositions in civil actions in the circuit courts of the State of Illinois.

- 10) Subpoenas. Requests for subpoenas shall be directed to the Executive Director at least five work days before the scheduled hearing, unless an exception is granted by the Executive Director. Subpoena requests may be granted if reasonably designed to produce or lead to the production of evidence related to the alleged charges and the terms of compliance are reasonable given the time frames and other circumstances. The party requesting the subpoenas shall be responsible for service and costs related to the subpoena of a witness. The fees of the witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of the State of Illinois. Subpoenas are effective throughout the course of the proceedings. Requests for subpoenas must be submitted in writing and include the following:
 - A) The name and address of the witnesses sought;
 - B) Any specific documents the witnesses will be required to bring; and
 - C) A brief statement of the relevant facts or testimony that the witnesses will be providing.
- 11) Request for Documents. At least 3 working days prior~~Prior~~ to the hearing, each party shall serve upon the other party and file a copy with the Secretary for the Merit Board, to be submitted to the Hearing Board or Hearing Officer, the following information, to the extent available at that time:
 - A) A list of the names and addresses of the witnesses the party proposes to call; and
 - B) All documents the party proposes to offer in its case-in-chief.

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- 12) Failure to Appear. Failure of a party to appear on the date set for hearing may result in findings of fact unfavorable to that party and may result in a loss of rights by default.

A) Failure to Appear by Employee

- i) A Notice of Convening of Hearing will be sent to all parties of record confirming the date, time and place of the hearing. If an employee or his/her representative is not present on the designated hearing date, the employer will try to make reasonable contact with the employee or his/her representative immediately. If, within a reasonable time on the hearing date, the employer is unable to contact the employee, the hearing will commence.
- ii) The Executive Director or his/her authorized representative will commence the hearing with an opening statement. At the conclusion of the opening statement, if the employee or his/her representative has still failed to appear, the hearing will be suspended for 3 work days. During this 3 work day period, the Executive Director or his/her authorized representative will try to make contact with the employee or his/her representative using the last known address, phone, email or any similar method as shown on the Written Charges for Discharge form.
- iii) If the employee or his/her representative cannot be reached within 3 work days or if the employee is unable to produce a reasonable explanation for failure to attend the hearing, the hearing will be closed and the employee's discharge shall become effective at the end of the 15-day period of the date on the Proof of Service on Employee, as found on the Written Charges for Discharge form, without further action by the Merit Board. The Merit Board/University System office shall notify the parties of record immediately of the action.
- iv) If the employee or his/her representative has a reasonable explanation for not attending the hearing, the Executive

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Director or his/her authorized representative shall schedule a new hearing date. A new Notice of Convening of Hearing will be issued to the parties of record and the Executive Director or his/her authorized representative will appoint either the same Hearing Board or Hearing Officer or appoint a new Hearing Board or Hearing Officer to conduct the hearing.

v) Reasonable explanations can include, but are not limited to: injury on the day or preceding day of the scheduled hearing, traffic accident, death or significant injury of a family member, or other cause that is deemed reasonable by the Executive Director or his/her authorized representative. In any event, the employee is required to demonstrate that there was reasonable effort made to contact the employer or the Merit Board/University System office.

B) Failure to Appear by Employer. If the employer fails to appear without reasonable cause, as determined by the Executive Director or his/her authorized representative, the employee will be reinstated to his/her position without loss of compensation as of the Proof of Service on Employee date on the Written Charges for Discharge form.

- 13) Disqualification of Assigned Hearing Board or Hearing Officer. A Hearing Board or Hearing Officer may be disqualified on grounds of bias or conflict of interest. An adverse ruling, or the fact that a Hearing Board or Hearing Officer has had contact with the University System, by itself, shall not constitute bias or conflict of interest. Whenever any party believes a Hearing Board or Hearing Officer should be disqualified from conducting an assigned proceeding, that party may file a request with the Executive Director to disqualify the Hearing Board or Hearing Officer, setting forth by affidavit the alleged grounds for disqualification, with proof of service on all parties. The Executive Director shall rule and make the final determination on all requests for disqualification.
- 14) Ex Parte Communications

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- A) Except in the disposition of matters they are authorized by law to entertain or dispose of on an ex parte basis, the Merit Board, the Executive Director, employees of the University System Office, and the assigned Hearing Board or Hearing Officer shall not, after [the](#) Notice of Convening of Hearing has been issued [to the parties of record](#), communicate, directly or indirectly, with any party or the party's representative regarding any issue of fact or with any person or party in connection with any other issue regarding the case, except upon notice and opportunity for all parties to participate. However, the Merit Board, the Executive Director, employees of the University System, and the Hearing Board or Hearing Officer may communicate with each other. Also, members of the Merit Board and the Hearing Board or Hearing Officer may have the aid and advice of one or more personal assistants.
 - B) Communications regarding procedure, including interpretation and application of Section 360 of the Act, subsection (f), and related procedures, are not considered ex parte communications.
- 15) Role and Responsibilities of the Hearing Board or Hearing Officer. The Hearing Board or Hearing Officer shall be responsible for the following activities:
- A) Conduct the pre-hearing conference;
 - B) Facilitate the timely completion of the hearing process, taking necessary steps to avoid delay;
 - C) Establish reasonable limits on the duration of witness testimony;
 - D) Limit repetitive or cumulative testimony;
 - E) Rule on motions, objections or evidentiary questions;
 - F) Hear evidence as presented at the hearing by the employer and the employee on behalf of their respective positions (the evidence may include matters in aggravation, mitigation and justification, which may pertain to the question of "just cause" for discharge);

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- G) Direct questions to witnesses at any time, but restrict questioning to the clarification of the testimony already presented;
 - H) Prepare and transmit to the Merit Board a signed findings of fact within 15 calendar days after receipt of the transcript and exhibits of the hearing proceedings ~~to be transmitted to the Merit Board~~. The findings of fact shall set forth each of the written charges alleged in the Written Charges for Discharge, including an evaluation of the facts presented by the employer and employee with respect to each charge, and based on this evaluation, a determination as to whether the charges are sufficiently supported by the evidence presented. The findings of fact shall be based exclusively on the evidence and on matters officially noticed. The findings of fact presented by the Hearing Board or Hearing Officer are advisory only to the Merit Board. It is not the role of the Hearing Board or Hearing Officer to determine whether just cause for discharge exists. The determination of just cause is the sole province of the Merit Board; and
 - I) Enter any order that further carries out the purpose of this Section.
- 16) Final Decision of the Merit Board. In the course of reaching its decision, the Merit Board may request the Executive Director to make recommendations that he/she deems appropriate with respect to the discharge proceedings. Nothing in this subsection~~subsections~~ (f)(16)~~(A)~~ and (B) is intended to eliminate or limit the Merit Board's discretion to determine the appropriate disposition on a case-by-case basis. The Merit Board shall enter findings of fact and shall order the following decision and order or any other decision and order it deems appropriate:
- A) Discharge, if just cause is found to exist. No employee shall be discharged except for just cause. Just cause is defined as some substantial shortcoming that renders the employee's continuance in his/her position in some way detrimental to the discipline and efficiency of the service and that the law and sound public opinion recognize as good cause for the employee no longer holding the position; or
 - B) Reinstatement, if just cause for discharge is found not to exist. An

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employee shall be reinstated as follows:

- i) Reinstatement with no loss of compensation when none of the significant charges are proven.
 - ii) Reinstatement with an unpaid suspension of a minimum of 60 days to a maximum of 120 days~~day suspension~~ when the proven charges do not rise to the level of just cause for discharge, but some disciplinary action is justified based on the severity of the proven charges. If the Merit Board orders reinstatement with a ~~60-day~~ suspension, any time served while on suspension pending discharge will be applied towards the fulfillment of the ~~60-day~~ suspension. The Merit Board shall not order a reinstatement with a suspension past the day of the action taken by the Merit Board.
- 17) Final Decision and Order of the Merit Board. The Secretary for the Merit Board shall immediately forward copies of all Merit Board orders to the employer and the employee ~~by certified mail or~~ by an overnight delivery service that requires signature upon receipt.
- 18) Administrative Review. All final decisions of the Merit Board shall be subject to appeal by the parties to the proceedings under the Administrative Review Law [735 ILCS 5/Art. III]. A complaint for administrative review must be filed and summons issued within 35 days after the date that a copy of the final Merit Board decision has been served upon the party affected. A final decision of the Merit Board shall be deemed served either when personally delivered or when deposited in the United States mail in a sealed envelope or package, with postage paid, addressed to the party affected by the decision at his/her last known residence or place of business.
- 19) Time Period Proceedings
- A) On the motion of either party with notice to the other party, or by independent action of the Chair of the Merit Board or the Executive Director communicated to both parties, any time period set forth in this subsection (f) may be extended by the Chair of the

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Merit Board or by the Executive Director for good cause shown.

- B) No extension may be beyond a period established by statute, except for cases in which a written motion for continuance of a scheduled hearing is filed with the Secretary for the Merit Board at least 48 hours prior to the time scheduled for hearing, unless an exception is granted by the Executive Director. The moving party must set forth emergency grounds for a continuance, which are limited to unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God; the sudden illness or death of the movant, a member of his or her immediate family, or his/her legal counsel; or if the movant is able to demonstrate some other real and compelling need for additional time. If there is an arrest or criminal indictment of any employee that resulted from an employee's conduct in the course of employment duties, the Executive Director, at the request of the employee, may grant a continuance of hearing pending some resolution of the criminal charges. Requests for continuances must be preceded by contacting the opposing party and asking for agreement to the continuance.
- C) The time periods set forth in this subsection (f), except for the 15-day period set forth in subsection (f)(3)(B) and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall be deemed directory and not mandatory; and no failure to comply with any of the time periods set forth in this subsection (f), except for the 15-day period set forth in subsection (f)(3)(B) of this Section and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall cause the Merit Board to lose jurisdiction of any matter.
- D) If the last date for filing falls on a weekend or legal holiday, the last date for filing is the first business day following that weekend or legal holiday.
- 20) Reason for Discharge. Causes justifying discharge and any suspension during the discharge proceedings shall include, but are not limited to: all those listed as cause for suspension if they become recurring offenses;

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and, in addition, theft; drinking intoxicating liquors on institutional time or property; inability to perform satisfactorily assigned duties as a result of drinking alcoholic beverages; malicious damage to property, tools, or equipment; immoral or indecent conduct that violates common decency or morality; conviction of an offense involving moral turpitude; illegal or excessive use of drugs, narcotics, and/or intoxicants.

- 21) Hearing Expenses. All customary and reasonable court reporter and copying expenses incident to the preparation of the Hearing Record and providing copies to parties to the proceedings shall be paid by the employer. The Merit Board shall pay all expenses of the Hearing Board or Hearing Officer and any legal expenses incurred by a Hearing Board or Hearing Officer, to the extent that those expenses have been approved by the Merit Board or its Executive Director.

g) Demotion

- 1) Any of the actions described in this subsection (g)(1) is considered to be a demotion when that action has been initiated by the employer. A demotion may occur when a status employee:
- A) is subject to a reduction in salary in his/her current position, or in a position of the same class to which he/she has been reassigned, except when the reduction in pay results from an overall reduction in pay to persons employed in the same class and/or when the Merit Board, on the basis of supporting evidence, determines that the pay potential should be lowered for a class;
 - B) is subject to a reduction in percentage of time worked;
 - C) is appointed to a position in a lower class in a promotional line;
 - D) is appointed to a position in a class outside a promotional line with a lower pay potential;
 - E) is given a nonstatus appointment.
- 2) None of the actions described in subsection (g)(1) are considered to be a demotion when the action has been initiated, or willingly accepted, by the

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employee.

- A) Evidence of initiation by, or willing acceptance by, an employee shall be: a statement signed by the employee (to be filed by the employer with the notice of employment) indicating that the new appointment is at his/her request and/or is acceptable to him/her, or the employee applied for, and took, the Civil Service examination, upon the results of which the new appointment is based, after the date of certification to his/her most recent position.
 - B) Without the evidence indicated in subsection (g)(2)(A), the action will be considered to have been initiated by the employer and, therefore, will be considered to be a demotion.
- 3) Any classification plan changes authorized and implemented by the University System and/or the Merit Board that may result in a lower pay potential will not be considered a demotion.
 - 4) An employer may effectuate a demotion by filing a Notice of Demotion [form](#) with the Merit Board and serving a copy of the Notice of Demotion on the employee by ~~an certified mail, by~~ overnight delivery [service](#) that requires signature upon receipt, or by personally serving the employee. The Notice of Demotion [form](#) shall designate the position and class to which the employee has been demoted and shall factually state the causes justifying demotion. The effective date of the demotion shall be the [Proof of Service on Employee date on date of service of](#) the Notice of Demotion ~~form upon the employee~~. A demotion shall be subject to the same hearing and review procedures as are provided an employee in the case of a discharge. (See subsection (f).) During any hearing and review proceedings, the employee shall be paid the approved rate for the class of the position to which he/she has been demoted, as set forth in the Notice of Demotion [form](#).
 - 5) A status employee who is demoted to a position in a class in which he/she has never been employed on a status appointment may qualify for the position to which he/she is demoted, if his/her name is not already on an eligible register for that class, by taking the examination given to all other applicants for this class as promptly as possible following demotion to the class. The employee must pass the examination as a condition to retaining

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his/her appointment.

- h) Dismissal
 - 1) An employer may dismiss an employee whose name has been certified and who has been subsequently employed in a status position at any time during the probationary period of employment in a class, if the employer determines, pursuant to ~~conditions of~~ Section 250.90(a), that the employee has failed to demonstrate the ability and the qualifications necessary to furnish satisfactory service.
 - 2) The employer shall notify the Executive Director promptly of dismissals, setting forth the reasons for the dismissal.

(Source: Amended at 41 Ill. Reg. 11576, effective August 30, 2017)

STATE UNIVERSITIES RETIREMENT SYSTEM

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- 1) Heading of the Part: Universities Retirement
- 2) Code Citation: 80 Ill. Adm. Code 1600
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1600.140	Amendment
1600.550	Amendment
1600.605	Amendment
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) Effective Date of Rules: September 1, 2017
- 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 materials incorporated by reference, are on file at the SURS office and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: 41 Ill. Reg. 808; February 3, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various grammatical changes have been made since this rule was published on first notice. SURS added a 90 day deadline for employers to pay the final 6% bill before delinquent amount is certified to the Comptroller.
- 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 rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Sections:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citation:</u>
1600.500	Amendment	41 Ill. Reg. 10237; July 28, 2017
1600.720	Amendment	41 Ill. Reg. 10237; July 28, 2017

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- 15) Summary and Purpose of Rulemaking: This rulemaking proposes adding a SIMPLE IRA clarification to 1600.140, adds a vacation payment and disability benefit commencement Section and further clarifies 1600.605 to further define what documents SURS may accept as evidence of a Consent to Issuance of QILDRO.
- 16) Information and questions regarding these adopted rules shall be directed to:

Albert Lee, Associate General Counsel
State Universities Retirement System
1901 Fox Drive
Champaign IL 61820

217/378-8861
217/378-8813

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

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEMPART 1600
UNIVERSITIES RETIREMENT

SUBPART A: GENERAL

Section

1600.100	Definitions
1600.110	Freedom of Information Act
1600.120	Open Meetings Act
1600.130	Procurement
1600.140	Compliance with the Internal Revenue Code
1600.145	Compliance with Final 415 Treasury Regulations
1600.150	Group Trust Provisions

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section

1600.202	Return to Employment
1600.203	Independent Contractors
1600.205	Earnings Subject to Withholding and Crediting
1600.210	Crediting Interest on Participant Contributions and Other Reserves
1600.220	Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
1600.230	Election to Pay Contributions Based upon Employment that Preceded Certification as a Participant
1600.240	Election to Make Contributions Covering Periods of Military Leave Protected under USERRA
1600.241	Survivor Benefits for Members Who Die While on Military Leave Protected under USERRA
1600.250	Sick Leave Accrual Schedule
1600.260	Part-time/Concurrent Service Adjustment
1600.270	Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%
1600.275	Employer Contributions for Employing Affected Annuitants

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SUBPART C: SURVIVORS AND BENEFICIARIES

Section

- 1600.300 Effective Beneficiary Designations
- 1600.305 Full-Time Student Survivors Insurance Beneficiaries
- 1600.310 Dependency of Beneficiaries
- 1600.320 Disability Claims Procedure (Renumbered)

SUBPART D: BENEFIT CALCULATION AND PAYMENT

Section

- 1600.400 Determination of Final Rate of Earnings Period
- 1600.410 Twenty Percent Limitation on Final Rate of Earnings Increases
- 1600.420 Making Preliminary Estimated Payments
- 1600.430 Excess Benefit Arrangement
- 1600.431 Indirect Payments to Minors and Legally Disabled Persons
- 1600.432 Indirect Payments to Child Survivors Through the Surviving Spouse
- 1600.440 Voluntary Deductions from Annuity Payments
- 1600.450 Overpayment Recovery

SUBPART E: [DISABILITY CLAIMS AND](#) ADMINISTRATIVE REVIEW

Section

- 1600.500 Administrative Staff Determinations and Rules for Appeal – Nature and Requirements of Formal Hearings
- 1600.510 Employer-Related Determinations and Rules for Appeal
- 1600.550 Disability Claims Procedure

SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

- 1600.600 Definitions
- 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1600.610 Invalid Orders
- 1600.615 Filing a QILDRO with the System
- 1600.620 Modified QILDROs
- 1600.625 Benefits Affected by a QILDRO
- 1600.630 Effect of a Valid QILDRO
- 1600.635 QILDROs Against Persons Who Became Members Prior to July 1, 1999

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1600.640	Alternate Payee's Address
1600.645	Electing Form of Payment
1600.650	Automatic Annual Increases
1600.655	Expiration of a QILDRO
1600.660	Reciprocal Systems QILDRO Policy Statement
1600.665	Providing Benefit Information for Divorce Purposes

SUBPART G: BOARD TRUSTEE ELECTION

Section

1600.700	Nomination of Candidates
1600.705	Election Date/Election Day – Defined
1600.710	Petitions
1600.715	Eligible Voters
1600.720	Election Materials
1600.725	Casting Votes
1600.730	Return of Ballots and Ballot Counting Process
1600.735	Certification of Ballot Counting
1600.740	Challenges to Election Results
1600.745	Candidate Informational Communication
1600.750	Filling a Vacancy in the Term of an Elected Trustee

AUTHORITY: Implementing and authorized by Section 15-177 of the Illinois Pension Code [40 ILCS 5/15-177].

SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6095, effective May 2, 1997; amended at 21 Ill. Reg. 11962, effective August 13, 1997; amended at 21 Ill. Reg. 12653, effective August 28, 1997; amended at 22 Ill. Reg. 4116, effective February 9, 1998; amended at 23 Ill. Reg. 13667, effective November 1, 1999; amended at 25 Ill. Reg. 10206, effective July 30, 2001; amended at 28 Ill. Reg. 2292, effective January 23, 2004; expedited correction at 28 Ill. Reg. 7575, effective January 23, 2004; amended at 29 Ill. Reg. 2729, effective March 1, 2005; amended at 29 Ill. Reg. 11819, effective July 12, 2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective

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May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; emergency expired September 23, 2009; amended at 33 Ill. Reg. 10757, effective July 1, 2009; amended at 33 Ill. Reg. 16755, effective November 23, 2009; amended at 34 Ill. Reg. 9523, effective June 25, 2010; amended at 35 Ill. Reg. 10952, effective June 22, 2011; amended at 36 Ill. Reg. 3938, effective February 22, 2012; amended at 37 Ill. Reg. 1309, effective January 15, 2013; amended at 37 Ill. Reg. 3866, effective March 15, 2013; amended at 37 Ill. Reg. 10698, effective June 26, 2013; amended at 37 Ill. Reg. 15517, effective September 12, 2013; amended at 38 Ill. Reg. 5659, effective February 11, 2014; emergency amendment at 38 Ill. Reg. 11376, effective May 9, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16375, effective July 17, 2014; amended at 38 Ill. Reg. 17457, effective July 30, 2014; amended at 39 Ill. Reg. 8317, effective June 1, 2015; amended at 40 Ill. Reg. 8437, effective June 3, 2016; amended at 41 Ill. Reg. 11606, effective September 1, 2017.

SUBPART A: GENERAL

Section 1600.140 Compliance with the Internal Revenue Code

- a) Purpose. This Section is intended to implement qualification requirements under IRC section 401(a) as applicable to governmental plans within the meaning of IRC section 414(d). The System is intended to be a qualified governmental plan under the meaning of those IRC provisions.
- b) Exclusive Benefit Rule and Nonreversion of Trust Assets. Prior to the satisfaction of all liabilities to participants or their beneficiaries, no part of the corpus or income of the System shall be used for, or diverted to, purposes other than for the exclusive benefit of the System's participants or their beneficiaries. No part of the System's assets may revert to the State of Illinois or any employer except in the case of a good faith mistake of fact as permitted by [IRS Revenue Ruling 91-4, 1991-1 C.B. 57](#).
- c) Nonforfeitability. Upon termination of the System or upon complete discontinuance of contributions to the System, the rights of each participant to benefits accrued to the date of the termination or discontinuance are nonforfeitable.

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- d) USERRA. The provisions of Code Section 1-118 (concerning veterans' rights) shall be effective with respect to the System beginning December 12, 1994.
- e) Required Minimum Distributions. The provisions of Code Section 1-116.1 (concerning minimum required distributions) shall be effective with respect to the System beginning January 1, 1987. The System shall pay all benefits in accordance with a reasonable good faith interpretation of the requirements of IRC section 401(a)(9).
- f) Federal Contribution and Benefit Limitations. Pursuant to Code Section 1-116, the System shall comply with the applicable contribution and benefit limitations imposed by IRC section 415 for limitation years beginning on or after January 1, 1976.
- g) Mortality Tables and Interest Rates. The mortality tables and interest rates adopted by the Board of Trustees of the System from time to time in accordance with Code Sections 15-124 and 15-125 shall apply to the System as though those provisions were fully set forth in Article 15 of the Code. This subsection (g) applies beginning July 1, 1963.
- h) Direct Transfer of Eligible Rollover Distributions. For distributions made on or after January 1, 1993, the System shall implement Code Section 1-106(b) (concerning direct rollovers) in accordance with IRC section 401(a)(31), as follows:
 - 1) If a distributee becomes entitled to an eligible rollover distribution, the distributee may elect to have the distribution, or any portion of the distribution, paid directly to an eligible retirement plan specified by the distributee.
 - 2) The election made pursuant to this Section shall be in accordance with the terms and conditions established by the Board.
 - 3) Upon exercise of the election by a distributee pursuant to this subsection (h), the distribution from the System of the amount designated by the distributee shall be made in the form of a direct transfer to the specified eligible retirement plan.

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- 4) For purpose of this subsection (h), "distributee" means a member, a surviving spouse, or a former spouse under a domestic relations order that is treated as a qualified domestic relations order to the extent provided in IRC section 414(p)(11). For plan years beginning on or after January 1, 2010, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by IRC section 401(a)(9)(E). However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity shall be treated as an "inherited" individual retirement account or annuity.
- 5) Eligible Rollover Distribution
- A) For purposes of this subsection (h), "eligible rollover distribution" means a distribution from the retirement fund that constitutes an eligible rollover distribution within the meaning of IRC section 401(a)(31)(D), i.e., any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
- i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made:
 - for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary; or
 - for a specified period of 10 years or more;
 - ii) any distribution to the extent the distribution is required under IRC section 401(a)(9);
 - iii) the portion of any distribution that is not includible in gross income; or
 - iv) any distribution that is reasonably expected to total less than \$200 during the year.

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- B) Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible distribution merely because a portion consists of after-tax contributions that are not includible in gross income. However, that portion may be transferred only:
- i) to an individual retirement account or annuity described in IRC section 408(a) or (b) or to a qualified defined contribution plan described in IRC section 401(a) that agrees to separately account for amounts so transferred (and earnings on those amounts), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible;
 - ii) on or after January 1, 2007, to a qualified defined benefit plan described in IRC section 401(a) or to an annuity contract described in IRC section 403(b) that agrees to separately account for amounts transferred (and earnings on those amounts), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not includible; or
 - iii) on or after January 1, 2008, to a Roth IRA described in IRC section 408A.
- 6) For purposes of this subsection (h), "eligible retirement plan" means a plan that constitutes an eligible retirement plan within the meaning of IRC section 401(a)(31)(E), the terms of which permit the acceptance of rollover distribution and is limited to the following:
- A) an individual retirement account described in IRC section 408(a);
 - B) an individual retirement annuity described in IRC section 408(b);
 - C) an annuity plan described in IRC section 403(a);
 - D) a qualified trust described in IRC section 401(a);

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- E) effective January 1, 2002, an annuity contract described in IRC section 403(b);
 - F) effective January 1, 2002, an eligible deferred compensation plan described in IRC section 457(b) that is maintained by an eligible employer described in IRC section 457(e)(1)(A) that agrees to separately account for amounts transferred into that plan from the System; ~~or~~
 - G) effective January 1, 2008, a Roth IRA described in IRC section 408A; ~~and~~
 - H) effective December 19, 2015, a SIMPLE IRA described in IRC section 408(p)(1), provided that the rollover contribution is made after the 2-year period described in IRC section 72(t)(6).
- i) Qualified Illinois Domestic Relations Orders. If benefits are payable pursuant to a QILDRO that satisfies the requirements of "domestic relations order" as defined in IRC section 414(p), then the applicable requirements of IRC section 414(p) shall be followed by the System.

(Source: Amended at 41 Ill. Reg. 11606, effective September 1, 2017)

SUBPART E: DISABILITY CLAIMS AND ADMINISTRATIVE REVIEW**Section 1600.550 Disability Claims Procedure**

- a) Pursuant to Code Section 15-150 ~~of the Code~~, a participant may be granted a disability benefit if, while a participating employee, he or she becomes physically or mentally incapacitated and unable to perform the duties of his or her assigned position for any period exceeding 60 consecutive calendar days and the employee had completed 2 years of service at the time of disability, unless the disability is a result of an accident. An employee shall be considered disabled only during the period for which the Board determines, based upon the evidence listed in this Section, that the employee is unable to reasonably perform the duties of his or her assigned position as a result of a physical or mental disability. This determination shall be based upon:

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- 1) a written certificate from one or more licensed and practicing physicians appointed by or acceptable to the Board, stating that the employee is disabled and unable to reasonably perform the duties of his or her assigned position;
 - 2) a written certificate from the employer stating that the employee is unable to perform the duties of his or her assigned position; and
 - 3) any other medical examinations, hospital records, laboratory results, or other information necessary for determining the employment capacity and condition of the employee.
- b) Application Filing Requirements
- 1) An application for disability benefits must include the certifications described in subsections (a)(1) and (a)(2), and supporting documentation described in subsection (a)(3), all as explained in more detail in this Section, for each disabling condition as well as for the entire period of disability.
 - 2) The application must be filed within one calendar year after the date on which the disability occurred. This limitation may be waived upon a showing of good cause, including, but not limited to, circumstances in which the applicant was under some physical, mental or medical infirmity or legal status that prevented the applicant from filing within the time period.
- c) Certification By Physicians. For purposes of subsection (a)(1), the following shall apply:
- 1) Physicians acceptable to the Board are attending physicians, physicians designated by the participant and physicians to whom the participant was referred by the attending or designated physician. Physicians appointed by SURS staff to examine the participant are deemed to be physicians appointed by the Board. The physician must be licensed to practice and be currently practicing in the field of expertise related to the underlying physical or mental condition for which disability benefits are sought.

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- 2) The certification must be signed by a physician described in subsection (c)(1) or an authorized representative of the physician and must state the following:
 - A) the medical diagnosis of the physical or mental condition;
 - B) the prognosis of the physical or mental condition;
 - C) the physical or mental limitations to which the participant should adhere; and
 - D) that the participant is disabled and is unable to reasonably perform the duties of his or her assigned position as a result of the physical or mental disability.

- 3) The certification must be accompanied by a report containing the following:
 - A) the date of examination;
 - B) the medical history of the participant;
 - C) the results of any diagnostic tests used;
 - D) the diagnosis of the physical or mental condition;
 - E) the plan of treatment for the physical or mental condition and prognosis in response to the treatment plan;
 - F) an evaluation of the physical or mental condition as it bears upon the participant's ability to reasonably perform the duties of his or her assigned position; and
 - G) any existing documentation of objective medically demonstrable anatomical, physiological or psychological abnormalities manifested as test results or laboratory findings apart from self-reported symptoms.

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- d) Certification by Employers. For purposes of subsection (a)(2), the certification must be signed by an officer authorized by the employer and must state the following:
- 1) the physical or mental performance requirements for the reasonable performance of the participant's assigned position;
 - 2) whether the participant is able to satisfy each physical or mental performance requirement for the reasonable performance of his or her assigned position to the best of the employer's knowledge or belief and the reason for that knowledge or belief; and
 - 3) whether the participant is able to reasonably perform the duties of his or her assigned position based on the provisions of subsections (d)(1) and (d)(2).
- e) Determination of Disability. If the participant establishes, by a ~~preponderance~~ preponderance of the evidence, that he or she is physically or mentally disabled and unable to perform the duties of his or her assigned position as a result of the disability, the participant shall be determined eligible for disability benefits under Section 15-150 of the Code.
- 1) SURS staff shall determine whether certifications made under subsections (a)(1) and (a)(2) and supporting documentation described in subsection (a)(3) establish eligibility for disability benefits.
 - 2) At the discretion of SURS staff, the participant may be required to submit to additional examinations by staff appointed physicians or specialists to aid in the determination process.
 - 3) Physical or mental conditions resulting from self-inflicted injuries, substance abuse, or any act for which the participant was convicted of a misdemeanor or felony are not the result of an accident for purposes of Code Section 15-150 ~~of the Code~~.
- f) Subsequent Re-examination of Disabled Participants
- 1) SURS staff shall secure from one or more physicians, periodically, re-evaluation reports concerning the continued disability of the participant.

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The date of re-evaluation shall be determined by SURS staff on the basis of the medical reports received previously, the nature of the disability, and other relevant information.

- 2) In the re-evaluation of disability claims, the examining physician shall be the attending physician or the physician designated by the participant, but, if the nature of the disability or other circumstances justifies the appointment of someone other than the participant's attending physician or designated physician as the examining physician, SURS staff shall make the appointment. All other procedures that may be applicable in processing the initial claim for disability benefits shall be followed in re-evaluation of the claim.
- g) Release of Medical Information. The participant may be required to authorize the release of all medical or other information related to the disability claim, including but not limited to medical reports, hospital records, Department of Employment Security earnings statements, income tax records, unemployment records, and any record deemed necessary to the administration of the disability claim. The failure of the participant to submit to a re-evaluation examination or a treatment plan, to produce records, or to approve release of information required may result in the suspension of disability benefit payments.
- h) Vacation Payments and Disability Benefit Commencement. If an employee receives payment for unused vacation leave accrued under the employment from which the employee is disabled, the date of the "termination of payment of salary or sick leave benefits" under Code Section 15-151 shall be delayed by the number of work days attributable to the vacation payment.

(Source: Amended at 41 Ill. Reg. 11606, effective September 1, 2017)

SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order

SURS will accept a court order as a valid QILDRO or QILDRO Calculation Court Order if it meets all of the following requirements:

- a) The following requirements apply to the QILDRO and the QILDRO Calculation Court Order:

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- 1) The order must be accompanied by a \$50 non-refundable processing fee, by check or money order payable to the State Universities Retirement System.
- 2) The order must be a certified copy of the original.
- 3) The order must have been issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation or dissolution of marriage that provides for the distribution of property, or any proceeding to amend or enforce the property distribution. A judgment, order or notice of income withholding for support under a support enforcement mechanism under Title IV-D of the Social Security Act (42 USC 666) or any other state law that purports to divide or garnish the member's retirement benefit under any proceeding for the declaration of invalidity of marriage, legal separation or dissolution of marriage will not be honored by SURS unless the judgment, order or notice is accompanied by a QILDRO (and if applicable, a QILDRO Calculation Court Order) issued by an Illinois court.
- 4) The order must contain the name, residence address and Social Security number of the member.
- 5) The order must contain the name, residence address and Social Security number of the alternate payee.
- 6) The order must identify the State Universities Retirement System as the retirement system to which it is directed.
- 7) The order must identify the court that issued it.
- 8) The order must apply only to benefits that are statutorily subject to QILDROs, as provided in [Code](#) Section 1-119(b)(1) ~~of the Pension Code~~.
- 9) The orders and, if applicable, the Consent to Issuance of QILDRO, must be in the form adopted by SURS as of the date the order is received. Any alterations will invalidate the order.
- 10) [Except as otherwise provided in this subsection \(a\)\(10\), the](#) ~~The~~ effective

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date of the order must be after July 1, 1999 and before the date of death of the member. If the effective date of the order is on or after the member's date of death, SURS will deem the effective date of the posthumous order as if it had been entered on the day immediately prior to the member's date of death if the order is dated no later than 6 months after the date of death and:

- A) any applicable consent requirements under subsection (b)(1) were met prior to the member's date of death; or
- B) the order is accompanied by a certified copy of a decree of dissolution of marriage that is dated before the date of death of the member and incorporates the terms of a written marital settlement agreement that was signed by both parties before the date of death of the member and provides direction for the division of the member's SURS benefits under a QILDRO.

- b) The following additional requirements apply only to the QILDRO:
- 1) If the QILDRO applies to a person who became a SURS member before July 1, 1999, it must be accompanied by the original Consent to Issuance of QILDRO form signed by the member, or a certified copy of the original. The consent cannot be signed by a judge, sheriff or any person other than the member. A QILDRO issued on or after July 1, 2006 that modifies a QILDRO issued prior to July 1, 2006 must be accompanied by an original Consent to Issuance of QILDRO signed by the member on or after July 1, 2006. If the alternate payee is unable to obtain a signed consent from the member, the required consent can be established if the QILDRO is accompanied by a certified copy of a decree of dissolution of marriage that incorporates the terms of a written marital settlement agreement that was signed by both parties and provides direction for the division of the member's SURS benefits under a QILDRO.
 - 2) The QILDRO must specify each benefit to which it applies, and it must specify only one method by which the benefit shall be paid to the alternate payee.
 - 3) If any benefit is to be paid using the Marital Portion Benefit Calculation, the QILDRO must comply with Code Section 1-119(n)IX of the Pension

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~~Code~~ and the QILDRO must contain language in conformance with Section 1-119(n)IX(1) and (2) properly completed. The "other" option must only be checked for the purpose of using a combination of permissive service and regular service. If the "other" option is checked, a supplemental order stating the details of the combination must accompany the QILDRO. The supplemental order must not purport to establish a formula differing from the ones appearing under Code Section 1-119(n) ~~of the Pension Code~~ or purport to create new classes of service credit.

- 4) If the member is a participant of the Traditional or Portable Benefit Package, the order must designate whether the alternate payee will receive automatic annual increases as provided under Code Section 1-119(n)IV ~~of the Pension Code~~.
 - 5) If the member is a participant of the Self-Managed Plan who has an account balance, then the QILDRO may only provide for the division of the account balance as of a certain date. If the Self-Managed Plan member is receiving benefits under an annuity contract, then the QILDRO may only divide the member's retirement benefit or death benefit, if any, or both.
- c) The following additional requirements apply only to the QILDRO Calculation Court Order:
- 1) The QILDRO Calculation Court Order must allocate benefits consistent with the underlying QILDRO. Benefits that will never become payable on or after the date the QILDRO Calculation Court Order is filed need not be allocated under the QILDRO Calculation Court Order
 - 2) Benefits allocated using a calculation method on the QILDRO Calculation Court Order must contain a clear result of the equation. SURS is not obligated to review or verify the equations or assist in the calculations to determine the benefits.

(Source: Amended at 41 Ill. Reg. 11606, effective September 1, 2017)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of August 29, 2017 through September 4, 2017. These rulemakings are scheduled for review at the Committee's September 12, 2017 meeting. 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>
10/13/17	<u>Department of Revenue</u> , Income Tax (86 Ill. Adm. Code 100)	7/7/17 41 Ill. Reg. 7790	9/12/17

PROCLAMATIONS

**2017-181
ASEAN Day**

WHEREAS, the Association of Southeast Asian Nations (ASEAN) promotes economic, political, and security cooperation among its 10 member nations: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam; and,

WHEREAS, ASEAN was formed in 1967 by the five founding members – Indonesia, Malaysia, the Philippines, Singapore, and Thailand – to promote regional cooperation; and,

WHEREAS, Brunei joined ASEAN in 1984, shortly after gaining its independence from the United Kingdom, and Vietnam joined ASEAN as its seventh member in 1995; Laos and Burma were admitted into full membership in July 1997 as ASEAN celebrated its 30th anniversary, and Cambodia became ASEAN’s 10th member in 1999; and,

WHEREAS, the ASEAN Community represents more than 600 million people and is comprised of three pillars: the Political-Security Community, the Economic Community, and the Socio-Cultural Community; and,

WHEREAS, in 2017, the Philippines is taking the helm as Chair of ASEAN, as the association marks its 50th anniversary with the theme, “Partnering for Change, Engaging the World”; and,

WHEREAS, the Southeast Asian American community enriches the fabric and foundation our nation, and the State of Illinois is proud to recognize the community’s leadership and contributions throughout our history;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim August 7, 2017, as ASEAN DAY in Illinois in celebration of the Association of Southeast Asian Nations’ 50th anniversary and wish the ASEAN Community many more years of success.

Issued by the Governor July 20, 2017

Filed by the Secretary of State August 31, 2017

**2017-182
Blood Donation Day**

WHEREAS, the State of Illinois is committed to ensuring the safety and security of all those living in and visiting our state; and,

PROCLAMATIONS

WHEREAS, a sufficient blood supply is a public safety issue both locally and nationally, and our hospitals and medical centers need a readily available supply of donated blood for our residents and visitors; and,

WHEREAS, one blood donation can help up to three patients; although an estimated 38 percent of the United States population is eligible to donate blood, fewer than 10 percent actually do; and,

WHEREAS, Illinois Blood Donation Day effectively serves as a reminder that we need to constantly replenish our blood supply through donation and community awareness;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 8, 2017, as BLOOD DONATION DAY in Illinois, and urge all citizens to support local blood drives to save lives and protect the health of our citizens.

Issued by the Governor July 21, 2017

Filed by the Secretary of State August 31, 2017

2017-183**Epilepsy Awareness Month**

WHEREAS, epilepsy is one of the most common neurological conditions, estimated to affect more than three million people in the United States and more than 50 million worldwide; and,

WHEREAS, epilepsy is a group of disorders of the central nervous system, specifically the brain, characterized by recurrent unprovoked seizures; and,

WHEREAS, seizures occur when the normal electrical balance in the brain is lost, causing the brain's nerve cells to misfire, either firing when they shouldn't or not firing when they should. Seizures are the physical effects of these sudden, brief, uncontrolled bursts of abnormal electrical activity; and,

WHEREAS, the type of seizure depends on how many cells fire and which area of the brain is involved. A person who has a seizure may experience an alteration in behavior, consciousness, movement, perception, and/or sensation; and,

WHEREAS, one in 10 people will have at least one seizure during his or her lifetime; and,

WHEREAS, the public is often unable to recognize common seizure types, or how to respond with appropriate first aid; and,

PROCLAMATIONS

WHEREAS, November 2017 is Epilepsy Awareness Month, created to bring about epilepsy acceptance, awareness, and education;

THEREFORE, I Bruce Rauner, Governor of the State of Illinois, do hereby proclaim November 2017 as EPILEPSY AWARENESS MONTH in Illinois in support of the effort to raise awareness of epilepsy.

Issued by the Governor July 21, 2017

Filed by the Secretary of State August 31, 2017

2017-184
Infant Mortality Awareness Month

WHEREAS, infant mortality refers to the death of a baby before it reaches his or her first birthday; and,

WHEREAS, Illinois ranks 26th among the 50 states in the rate of infant mortality; and,

WHEREAS, in 2015, the Illinois infant mortality rate reached six deaths per 1,000 live births, which has remained relatively unchanged since 2010; and,

WHEREAS, the current infant mortality rate is a significant and troubling public health issue, especially for African-American, Native-American, and Hispanic families; and,

WHEREAS, the infant mortality rate among African-American women is nearly triple that of Caucasian women, according to the Illinois Department of Public Health; and,

WHEREAS, the Illinois Department of Public Health and other stakeholders in the Collaborative Improvement & Innovation Network to Reduce Infant Mortality (CoIIN) are committed to addressing infant mortality by focusing on preconception and interconception health, sudden infant death syndrome, social determinants of health, early elective delivery, and perinatal regionalization; and,

WHEREAS, a set of goals and objectives with 10-year targets designed to guide national health promotion and disease prevention, known as Healthy People 2020, includes an objective regarding a decrease in the rate of infant mortality; and,

WHEREAS, September 1, 2017, is the beginning of a period of several months during which there will be several national state observances that relate to the issue of infant mortality, including the observance of October as Sudden Infant Death Awareness Month and November as Prematurity Awareness Month;

PROCLAMATIONS

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 2017 as INFANT MORTALITY AWARENESS MONTH in Illinois to reduce health inequities; improve birth outcomes; and improve the health of all Illinois women, babies, and families so that no parent will have to endure the tragedy of infant death.

Issued by the Governor July 21, 2017

Filed by the Secretary of State August 31, 2017

2017-185
Manufacturing Month

WHEREAS, manufacturing in Illinois has been the historical bedrock of the state's economy for nearly two centuries; and,

WHEREAS, nearly 12,507 manufacturing firms call Illinois home and provide employment for more than 572,500 workers; and,

WHEREAS, Illinois manufacturers face a graying of the workforce, as more than 25,000 "Baby-Boom" era workers will retire each and every year between now and 2027; and,

WHEREAS, a strategic approach to creating high quality, skilled workers available to replace retiring workers does not exist everywhere in Illinois; and,

WHEREAS, modern advanced manufacturing relies on clean, well-lit, and climate controlled environments; provides competitive benefits to every employee including healthcare and retirement plans; and thereby makes manufacturing a worthwhile career choice for all Illinoisans; and,

WHEREAS, specific public events designed to expand general knowledge about the innumerable contributions manufacturing makes to our common good would bring significant change to the public perception of manufacturing in our state;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2017 as MANUFACTURING MONTH in Illinois to encourage local collaborative efforts be designed to expand knowledge about and improve general public perception of manufacturing careers and manufacturing's value to the Illinois economy, and urge all school districts, community colleges, and manufacturers in Illinois to invest time and resources to celebrate the contributions manufacturers make to the fabric of our state's communities and assure continued success of local events highlighting Manufacturing Month in Illinois.

PROCLAMATIONS

Issued by the Governor July 21, 2017
Filed by the Secretary of State August 31, 2017

2017-186
Payroll Week

WHEREAS, the American Payroll Association joins countless payroll professionals throughout the State of Illinois in observing National Payroll Week, September 4-8, 2017; and,

WHEREAS, this awareness campaign is designed to help workers in America better understand issues related to our payroll and tax systems, as well as educate payroll professionals and employers about important payroll-related regulatory and compliance issues; and,

WHEREAS, payroll professionals in Illinois play a key role in maintaining our state's economic health, carrying out such diverse tasks as paying into the unemployment insurance system; providing information for child support enforcement; and carrying out tax withholding, reporting, and depositing; and,

WHEREAS, payroll departments nationwide spend more than \$2.2 trillion annually complying with myriad federal, state, and local wage tax laws; and,

WHEREAS, these funds go toward supporting important civic projects, including roads, schools, and parks in communities across Illinois; and,

WHEREAS, payroll professionals have become increasingly proactive in educating both the business community and the public at large about the payroll tax withholding systems; and

WHEREAS, these dedicated professionals continually strive to meet the highest standards toward improving compliance with government procedures, reducing costs, and improving the overall payroll process in Illinois;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 4–8, 2017, as PAYROLL WEEK in Illinois, and urge all citizens to reflect on the important work done by payroll professionals throughout our great state.

Issued by the Governor July 21, 2017
Filed by the Secretary of State August 31, 2017

2017-187
Veterans and Gold Star Families Day at the DuQuoin State Fair

PROCLAMATIONS

WHEREAS, throughout our nation's history, America's men and women in uniform have demonstrated bravery and courage in the face of danger; and,

WHEREAS, our veterans answered the call to duty with honor, decency, and selflessness; and,

WHEREAS, as we recall the service of our soldiers, sailors, airmen, marines, and coast guardsmen, we are reminded that the defense of freedom comes with great loss and sacrifice; and,

WHEREAS, it is our duty to ensure that the sacrifices of these heroes and their families are never forgotten. Our veterans represent the best of America and they deserve the benefits they have earned; and,

WHEREAS, Sunday, August 27, 2017, is Veterans and Gold Star Families Day at the DuQuoin State Fair – a day to give thanks to those who served our country, to salute our service members, and to honor the men and women who lost their lives protecting our freedom; and,

WHEREAS, it is important that we recognize these true patriots of freedom, liberty, and democracy, not only on this day, but throughout the year; and,

WHEREAS, on this day, veterans and their families are admitted to the fairgrounds for free, and a number of special Veterans' Day activities will be held;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim Sunday, August 27, 2017, as VETERANS AND GOLD STAR FAMILIES DAY AT THE DUQUOIN STATE FAIR in Illinois, and encourage all Americans to recognize and honor the sacrifice of our veterans.

Issued by the Governor July 27, 2017

Filed by the Secretary of State August 31, 2017

2017-188**Veterans and Gold Star Families Day at the State Fair**

WHEREAS, throughout our nation's history, America's men and women in uniform have demonstrated bravery and courage in the face of danger; and,

WHEREAS, our veterans answered the call to duty with honor, decency, and selflessness; and,

PROCLAMATIONS

WHEREAS, as we recall the service of our soldiers, sailors, airmen, marines, and coast guardsmen, we are reminded that the defense of freedom comes with great loss and sacrifice; and,

WHEREAS, it is our duty to ensure that the sacrifices of these heroes and their families are never forgotten. Our veterans represent the best of America and they deserve the benefits they have earned; and,

WHEREAS, Sunday, August 13, 2017, is Veterans and Gold Star Families Day at the Illinois State Fair – a day to give thanks to those who served our country, to salute our service members, and to honor the men and women who lost their lives protecting our freedom; and,

WHEREAS, it is important that we recognize these true patriots of freedom, liberty, and democracy, not only on this day, but throughout the year; and,

WHEREAS, on this day, veterans and their families are admitted to the fairgrounds for free, and a number of special Veterans' Day activities will be held;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim Sunday, August 13, 2017, as VETERANS AND GOLD STAR FAMILIES DAY AT THE STATE FAIR in Illinois, and encourage all Americans to recognize and honor the sacrifice of our veterans.

Issued by the Governor July 27, 2017

Filed by the Secretary of State August 31, 2017

2017-189**70th Anniversary of Indian Independence Day**

WHEREAS, in 1947, India proclaimed independence and officially became recognized as the Republic of India, marking the beginning of a free and sovereign nation of people; and,

WHEREAS, as a growing democracy with a booming economy, India is an inspiration and beacon of hope for people around the world for its rejection of terrorism and extremism, and continuing to stand firm in its belief in democracy, freedom, diversity, and the rule of law; and,

WHEREAS, the people of Illinois who hail from India, or with ancestral ties to India, continually demonstrate the greatness and beauty of India, and their contributions reflect success in reaching the American Dream in many areas including education, medicine, science, technology, government, and business; and,

PROCLAMATIONS

WHEREAS, the contributions of Indian Americans to the social, economic, and cultural landscape to the Land of Lincoln greatly increase the quality of life for all Illinois residents; and,

WHEREAS, the Indian American community throughout Illinois will celebrate the 70th Anniversary of Indian Independence Day on August 15, 2017;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim August 15, 2017, as the 70TH ANNIVERSARY OF INDIAN INDEPENDENCE DAY in Illinois, and join all Indian Americans in celebration of this very special day.

Issued by the Governor July 31, 2017

Filed by the Secretary of State August 31, 2017

2017-190**70th Anniversary of Pakistani Independence Day**

WHEREAS, in 1947, Pakistan proclaimed independence and officially became recognized as the Islamic Republic of Pakistan, marking the beginning of a free and sovereign nation of people; and,

WHEREAS, Mohammad Ali Jinnah successfully campaigned for an independent Pakistan and became its first General Governor of Pakistan. He would later explain that, "the story of Pakistan, its struggle, and its achievement is the very story of great human ideals"; and,

WHEREAS, the people of Illinois who hail from Pakistan, or with ancestral ties to Pakistan, continually demonstrate the greatness and beauty of Pakistan, and their contributions reflect success in reaching the American Dream in many areas including education, medicine, science, technology, government, and business; and,

WHEREAS, the contributions of Pakistani Americans to the social, economic, and cultural landscape of this state greatly increase the quality of life for all Illinois residents; and,

WHEREAS, from the Chicago Parade on Devon Avenue to the Taste of Pakistan in Bolingbrook, the Pakistani American community throughout Illinois will celebrate the 70th Independence Day of Pakistan on August 14, 2017;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim August 14, 2017, as the 70TH ANNIVERSARY OF PAKISTANI INDEPENDENCE DAY in Illinois, and join all Pakistani Americans in celebration of this very special day.

Issued by the Governor July 31, 2017

PROCLAMATIONS

Filed by the Secretary of State August 31, 2017

2017-191**Officer Robin G. Vogel Memorial Day**

WHEREAS, Decatur Police Officer Robin G. Vogel was struck by a drunk driver while on duty October 1, 2005, and passed away from her injuries two days later on October 3, 2005; and,

WHEREAS, Officer Vogel was the first female Decatur Police Officer killed in the line of duty, and one of four officers killed across the State of Illinois in 2005; and,

WHEREAS, since 2014, friends and family, including more than 150 runners each year, have come together in Decatur to honor Officer Vogel's memory during the Robin Vogel Memorial 5K; and,

WHEREAS, proceeds from the 5K event go toward a scholarship in Officer Vogel's memory, given to a high school senior in Macon County who desires to pursue a degree in law enforcement; and,

WHEREAS, since its inception, this scholarship fund has awarded more than \$10,000 to deserving students, and is currently the single largest scholarship available to Macon County students; and,

WHEREAS, the Fourth Annual Robin Vogel Memorial 5K will be held September 30, 2017, in Decatur's Nelson Park;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 30, 2017, as OFFICER ROBIN G. VOGEL MEMORIAL DAY in Illinois.

Issued by the Governor July 31, 2017

Filed by the Secretary of State August 31, 2017

2017-192**Medal of Honor - Specialist Five James C. McCloughan**

WHEREAS, a native of Bangor, Michigan, Specialist Five James C. McCloughan was drafted into the United States Army at the age of 22 in August 1968; and,

WHEREAS, McCloughan completed advanced training as a medical specialist before he was deployed to Vietnam in March 1969, assigned as a combat medic with Company C, 3rd Battalion, 21st Infantry Regiment, 196th Light Infantry Brigade, Americal Division; and,

PROCLAMATIONS

WHEREAS, Spc. 5 James McCloughan distinguished himself during 48 hours of close-combat fighting against enemy forces on May 13-15, 1969, near Tam Kỳ at Nui Yon Hill, in which he treated the wounded while fighting North Vietnamese and Viet Cong forces. McCloughan was wounded multiple times during the battle, but refused evacuation; and,

WHEREAS, McCloughan earned many awards and decorations during his service in Vietnam from March 1969 to March 1970, including the Bronze Star, Purple Heart, Good Conduct Medal, Vietnam Service Medal with three Bronze Service Stars, and Army Valorous Unit Citation; and,

WHEREAS, following his service in Vietnam, McCloughan taught sociology and psychology at a high school in South Haven, Michigan, until his retirement in 2008; he also coached football, baseball, and wrestling throughout much of his teaching career and was inducted into three High School Coaches Halls of Fame in Michigan; and,

WHEREAS, on July 31, 2017, President Donald Trump presented Specialist Five James C. McCloughan with the Medal of Honor for his heroic actions during the Vietnam War;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby congratulate SPECIALIST FIVE JAMES C. MCCLOUGHAN for his Medal of Honor award and thank him for his service to our nation.

Issued by the Governor August 4, 2017

Filed by the Secretary of State August 31, 2017

2017-193
Peace Days

WHEREAS, since September 7, 1978, Peace Day is celebrated annually in Chicago, Illinois, through the observance of One Minute of Silence for World Peace; and,

WHEREAS, in 1981, the United Nations proposed a resolution declaring one day every year as International Day of Peace. This day is observed to promote global cease-fire and non-violence in every country across the globe; and,

WHEREAS, Peace Day is used as a means of spreading the message of world peace and its vital importance to the future of the human race; and,

WHEREAS, the goal of Peace Day is to contribute to the peace-making process through positive peace-building activities, and to allow all individuals to harness their abilities and actively participate in creating a more peaceful world; and,

PROCLAMATIONS

WHEREAS, the Peace School, an Illinois not-for-profit organization, has sponsored Peace Day since its inception and has been awarded the United Nations Peace Messenger designation for its significant contributions to peace; and,

WHEREAS, in 2001, a resolution was passed by the United Nations declaring September 21st of every year as International Day of Peace as a way of rededicating the United Nations to its goals of strengthening the ideals of peace and alleviating the tensions and causes of conflict; and,

WHEREAS, these events encourage all individuals to take a minute for peace every day as a positive step toward making every day Peace Day;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 7-27, 2017, as PEACE DAYS in Illinois in recognition of the effort to build a more peaceful state, a more peaceful country and a more peaceful world.

Issued by the Governor August 4, 2017

Filed by the Secretary of State August 31, 2017

2017-194
Gold Star Family Day

WHEREAS, during World War I Americans began flying a flag with a blue star for each immediate family member serving in the Armed Forces; and,

WHEREAS, the star would be changed to gold if the family lost a loved one in the war; and,

WHEREAS, these families become known as Gold Star Families; and,

WHEREAS, we remember our commitment to the Gold Star Families who carry on with pride and resolve despite unthinkable loss; and,

WHEREAS, we recall our sacred obligation to those who gave their lives so we can live ours; and,

WHEREAS, the Illinois 99th General Assembly recognized the day after Gold Star Mother's Day as Gold Star Family Day;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 25, 2017, as GOLD STAR FAMILY DAY in Illinois to recognize the families who suffered the

PROCLAMATIONS

supreme tragedy in the loss of their sons and daughters in war and remember the sacrifices they have made.

Issued by the Governor August 7, 2017

Filed by the Secretary of State August 31, 2017

2017-195
Gold Star Mother's Day

WHEREAS, on June 4, 1928, 25 mothers met in Washington, D.C. to establish the national organization American Gold Star Mothers, Inc.; and,

WHEREAS, the success of American Gold Star Mothers, Inc. continues because of the bond of mutual love, sympathy, and support of the many loyal, capable, and patriotic mothers who, while sharing their grief and their pride, channel their time, efforts, and gifts to lessening the pain of others; and,

WHEREAS, the members of the Armed Forces are prepared to serve others at any cost; their loved ones exemplify the values of courage and selflessness that define our Armed Forces and fortify our state and country; and,

WHEREAS, we remember our commitment to the Gold Star Mothers who carry on with pride and resolve despite unthinkable loss; and,

WHEREAS, we recall our sacred obligation to those who gave their lives so we can live ours; and,

WHEREAS, the United States 74th Congress proclaimed the last Sunday in September as "Gold Star Mother's Day";

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 24, 2017, as GOLD STAR MOTHER'S DAY in Illinois to recognize the mothers who suffered the supreme tragedy in the loss of their sons and daughters in war and remember the sacrifices they have made.

Issued by the Governor August 7, 2017

Filed by the Secretary of State August 31, 2017

2017-196
National Cyber Security Awareness Month

PROCLAMATIONS

WHEREAS, the State of Illinois recognizes that it plays a vital role in identifying, protecting its citizens from, and responding to cyber threats that may have a significant impact on our individual and collective security and privacy; and,

WHEREAS, critical infrastructure sectors are increasingly reliant on information systems and technology to support financial services, energy, telecommunications, transportation, utilities, health care, and emergency response systems; and,

WHEREAS, the Stop.Think.Connect.TM Campaign serves as the national cybersecurity public awareness campaign, implemented through a coalition of private companies, nonprofit, and government organizations, as well as academic institutions working together to increase the understanding of cyber threats and empowering the American public to be safer and more secure online; and,

WHEREAS, the National Institute of Standards and Technology (NIST) Cybersecurity Framework and the U.S. Department of Homeland Security's Critical Infrastructure Cyber Community (C3) Voluntary Program have been developed as free resources to help organizations – large and small, both public and private – implement the NIST Cybersecurity Framework and improve their cybersecurity practices through a practical approach to addressing evolving threats and challenges; and,

WHEREAS, maintaining the security of cyberspace is a shared responsibility in which each of us has a critical role to play, and awareness of computer security essentials will improve the security of the State of Illinois's information, infrastructure, and economy; and,

WHEREAS, the President of the United States of America, the Illinois Department of Innovation and Technology, the U.S. Department of Homeland Security, the Multi-State Information Sharing and Analysis Center, the National Association of State Chief Information Officers, and the National Cyber Security Alliance all recognize October as National Cyber Security Awareness Month; all citizens are encouraged to visit these websites, along with Ready Illinois and the Stop.Think.Connect.TM Campaign website, to learn about cybersecurity and put that knowledge into practice in their homes, schools, workplaces, and businesses;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2017 as NATIONAL CYBER SECURITY AWARENESS MONTH in Illinois.

Issued by the Governor August 14, 2017

Filed by the Secretary of State August 31, 2017

2017-197

We Card Awareness Month

PROCLAMATIONS

WHEREAS, Illinois law prohibits the sale of tobacco products to persons under the age of 18; and,

WHEREAS, We Card Awareness Month is a retail education and training effort to boost Illinois retailers' awareness of and participation in responsible retailing efforts to comply with federal, state, and local laws, and to identify, prevent, and deny tobacco and other age-restricted product sales to minors; and,

WHEREAS, 2017 is the 22nd anniversary year of the national non-profit organization, The We Card Program, Inc., providing training and education to the retail community to help retailers comply with age-restricted product laws and serve their communities as responsible retailers; and,

WHEREAS, We Card in-store training and education materials, its online training program, and its mystery shopping service "ID Check-Up" are available to all Illinois retailers through We Card's website; and,

WHEREAS, We Card is endorsed by the Associated Food and Petroleum Dealers and Illinois will benefit from a responsible retailing community that successfully prevents tobacco and other age-restricted product sales to minors;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 2017 as WE CARD AWARENESS MONTH and encourage all Illinois retailers to participate in "We Card Awareness Month" activities and to let their customers know that "In Illinois, we don't sell tobacco and other age-restricted products to kids!"

Issued by the Governor August 14, 2017

Filed by the Secretary of State August 31, 2017

2017-198**Lions and Lioness Clubs Candy Days**

WHEREAS, in 1974, the Lions Clubs of Illinois established the Lions of Illinois Foundation as a non-profit organization for the purpose of creating permanent programs for the visually and hearing impaired; and,

WHEREAS, the Lions and Lioness Clubs of Illinois dedicate their time to helping the visually and hearing impaired with numerous services throughout the state; and,

PROCLAMATIONS

WHEREAS, the Lions and Lioness Clubs of Illinois host numerous programs including Camp Lions, which involved more than 17,000 participants since its inception; and,

WHEREAS, Candy Day is sponsored by Lions and Lioness of Illinois Foundation in order to raise money for worthwhile projects through Candy Day sales; and,

WHEREAS, the proceeds from Candy Day will help provide detection, treatment, and rehabilitation programs for the visually and hearing impaired residents of Illinois;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 13-14, 2017, as LIONS AND LIONESSE CLUBS CANDY DAYS in Illinois, and encourage all citizens to support this noble endeavor.

Issued by the Governor August 17, 2017

Filed by the Secretary of State August 31, 2017

2017-199
N95 Day

WHEREAS, an estimated 20 million American workers use respirators every day to protect against potential job hazards – from doctors and nurses to firefighters, first-responders, coal miners, and agriculture workers; and,

WHEREAS, many of these workers depend on particulate filtering facepiece respirators when working in environments with hazardous airborne particles; and,

WHEREAS, part of the Centers for Disease Control and Prevention (CDC), the National Institute for Occupational Safety and Health (NIOSH) is the federal agency responsible for testing and approving respirators; and,

WHEREAS, NIOSH-approved N95 filtering facepiece respirators filter 95 percent of particles and significantly reduce the wearer's risk of inhaling hazardous airborne particles from dangerous chemicals, dust, metal fumes, and many infectious diseases; and,

WHEREAS, the most effective emergency preparedness is proper use of protective respirators every day;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 5, 2017, as N95 DAY to emphasize the importance of properly using NIOSH-approved N95 filtering facepiece respirators.

PROCLAMATIONS

Issued by the Governor August 17, 2017

Filed by the Secretary of State August 31, 2017

2017-200
National Estuaries Week

WHEREAS, the Illinois coast of Lake Michigan – including Illinois Beach State Park, Waukegan Harbor, Great Lakes Harbor, Wilmette Harbor, Grosse Point, and Chicago Harbor – are integral to the State of Illinois; and,

WHEREAS, the State of Illinois is dedicated to promoting the conservation and wise use of our coast, including the quality of its water, soil, air, plant, and animal resources to the end that these natural resources may be used and enjoyed by Illinoisans forever; and,

WHEREAS, estuaries are unique coastal environments that support more life per square inch than any other ecosystem on Earth, providing habitat for countless species of fish, shellfish, birds, and marine mammals; and,

WHEREAS, preserving our local fish habitats and populations will also preserve our recreational and sport fishing industry, which benefits the state's economy, while commercial fishing and boating contribute additional hundreds of millions of dollars each year; and,

WHEREAS, maintaining clean shorelines attracts millions of locals and visitors who come to the Illinois coast for tourist and recreational activities, coastal industries that contribute approximately \$3 billion to the State's gross domestic product every year; and,

WHEREAS, restoration projects create more than twice as many jobs as the oil, gas, and road construction industries combined; and,

WHEREAS, protecting and restoring our estuaries is vital to our local and national economy because they sustain the fisheries that feed America, ensure outdoor recreational opportunities for current and future generations, reduce the costly impacts of natural hazards, and support local jobs which cannot be exported;

THEREFORE, I, Governor Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 16-23, 2017, as NATIONAL ESTUARIES WEEK in Illinois.

Issued by the Governor August 17, 2017

Filed by the Secretary of State August 31, 2017

2017-201

PROCLAMATIONS

Rail Safety Week

WHEREAS, 101 crashes occurred at public highway-rail grade crossings, resulting in 43 personal injuries and 24 fatalities in the State of Illinois during 2016; and,

WHEREAS, 41 trespassing incidents occurred in the State of Illinois during 2016, resulting in the deaths of 22 pedestrians and injuring 19 others while trespassing on railroad property rights of way; and,

WHEREAS, Illinois ranked second in the nation in grade crossing fatalities and seventh in trespass fatalities for 2016; and,

WHEREAS, more than 86 percent of crashes at public grade crossings occur where active warning devices exist; and,

WHEREAS, educating and informing the public about rail safety, reminding the public that railroad rights of way are private property, enhancing public awareness of the dangers associated with highway-rail grade crossing, ensuring pedestrians and motorists are looking and listening while near railways, and obeying established traffic laws will reduce the number of fatalities and injuries to Illinoisans; and,

WHEREAS, the Illinois Association of Chiefs of Police, Illinois Truck Enforcement Association, Illinois State Police, Illinois Department of Transportation, Illinois Commerce Commission, Illinois Operation Lifesaver, Illinois Sheriff's Association, Illinois Railroad Association, all local and railroad law enforcement, first responders and area railroad companies commit to partnering together in an effort to educate Illinois residents on all aspects of railroad safety, to enforce applicable state laws, and to support Illinois Rail Safety Week; and,

WHEREAS, 2017 marks the first year that Operation Lifesaver has designated a National Rail Safety Week, which coincides with Rail Safety Week in Illinois, to implement the safety initiative across the country;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 24-30, 2017, as RAIL SAFETY WEEK in Illinois, and encourage all citizens to recognize the importance of rail safety education.

Issued by the Governor August 17, 2017

Filed by the Secretary of State August 31, 2017

2017-202
Illinois Constitution Day

PROCLAMATIONS

WHEREAS, the first Illinois Constitution was adopted on August 26, 1818, following a constitutional convention in Kaskaskia in Randolph County, which was part of the Illinois Territory; and,

WHEREAS, the first constitution of the State of Illinois was compiled mainly with provisions taken from the constitutions of Kentucky, Ohio, and Indiana, and was adopted by the 33 delegates to the 1818 constitutional convention; and,

WHEREAS, Illinois was granted statehood by the United States government on December 3, 1818, becoming the 21st state in the Union; and,

WHEREAS, on August 26, 2017, I will join a group of state, county, and local leaders at Kaskaskia Island to mark the 199th anniversary of the signing of the 1818 Illinois Constitution and signal the start of the 100 Day Countdown to December 3, 2017, the official start of the year-long Bicentennial Celebration;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim August 26, 2017, as ILLINOIS CONSTITUTION DAY and encourage all Illinoisans to participate in commemoration events and celebrations as part of the Illinois Bicentennial.

Issued by the Governor August 18, 2017

Filed by the Secretary of State August 31, 2017

2017-203
Constitution Week

WHEREAS, the Constitution of the United States of America, the guardian of our liberties, embodies the principles of limited government in a Republic dedicated to rule by law; and,

WHEREAS, September 17, 2017, marks the 230th anniversary of the framing of the Constitution of the United States of America by the Constitutional Convention in 1787; and,

WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate it; and,

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 17-23, 2017, as CONSTITUTION WEEK in Illinois.

PROCLAMATIONS

Issued by the Governor August 21, 2017

Filed by the Secretary of State August 31, 2017

2017-204**Direct Support Professionals Recognition Week**

WHEREAS, direct support professionals, direct care workers, and in-home support workers are the primary providers of publicly-funded, long-term support and services for individuals with disabilities; and,

WHEREAS, direct support professionals must build close, respectful, and trusted relationships with the persons they help support; and,

WHEREAS, direct support professionals help those with disabilities participate fully in their communities and remain connected to family and friends; and,

WHEREAS, direct support professionals provide a broad range of individualized support to help enable individuals to live meaningful and productive lives; and,

WHEREAS, direct support professionals play an important role in supporting individuals with disabilities in helping them avoid more costly institutional care; and,

WHEREAS, Illinoisans recognize and celebrate the contributions of direct support professionals that help strengthen our communities by fostering greater inclusion for persons with disabilities;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 11-15, 2017, as DIRECT SUPPORT PROFESSIONALS RECOGNITION WEEK in Illinois to recognize the dedication and vital role of direct support professionals in enhancing the lives of individuals of all ages with disabilities.

Issued by the Governor August 21, 2017

Filed by the Secretary of State August 31, 2017

2017-205**Employee Ownership Month**

WHEREAS, employee stock ownership plans (ESOPs) have been established in approximately 10,000 companies in the United States, employing 10.3 million working men and women; and,

PROCLAMATIONS

WHEREAS, employee ownership is becoming a practice that is instrumental in helping Americans share in our nation's growth and prosperity by enabling our citizens to accumulate significant amounts of capital stock in the business at which they are employed; and,

WHEREAS, employee ownership has become a powerful incentive for Americans to make the best of their talents and energies in their places of work, thus strengthening the competitive potential of our state's businesses; and,

WHEREAS, Illinois currently has more than 340 employee stock ownership companies, along with hundreds of legal, valuation, and financial organizations that serve as professional advisors to the employee stock ownership community; and,

WHEREAS, the successful record of employee-owned firms in benefiting both companies and employees merits recognition; and,

WHEREAS, employee ownership aids in creating and retaining jobs in our state;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2017 as EMPLOYEE OWNERSHIP MONTH in Illinois and urge all citizens to join me in recognizing employee-owned firms and their contributions to our state.

Issued by the Governor August 21, 2017

Filed by the Secretary of State August 31, 2017

2017-206
Credit Union Day

WHEREAS, since 1948, the third Thursday in October each year has been designated as International Credit Union Day, a day recognized by the Credit Union National Association for credit unions around the world to celebrate the credit union movement, as well as show appreciation for credit union members; and,

WHEREAS, credit unions are not-for-profit financial cooperatives, democratically owned and operated, and founded by people working together toward economic advancement; and,

WHEREAS, credit unions embrace a "people helping people" philosophy through the pooling of personal resources and leadership abilities for the good of the cooperative, empowering members to improve their financial futures and uniting to help those in need; and,

WHEREAS, credit unions have championed the idea that people from all walks of life should have access to affordable financial services; and,

PROCLAMATIONS

WHEREAS, the state of Illinois has more than 200 state-chartered credit unions – the most of any state – providing financial services to nearly three million Illinois citizens; and,

WHEREAS, credit unions are developing strong alliances that make financial democracy possible in many countries throughout the world;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 19, 2017, as CREDIT UNION DAY in Illinois, and encourage all citizens to recognize the many contributions credit unions have made to the state, and honor and express appreciation for the service and commitment of Illinois credit unions.

Issued by the Governor August 29, 2017

Filed by the Secretary of State August 31, 2017

ILLINOIS ADMINISTRATIVE CODE
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