

TABLE OF CONTENTS

August 3, 2018 Volume 42, Issue 31

PROPOSED RULES

HUMAN SERVICES, DEPARTMENT OF	
Temporary Assistance for Needy Families	
89 Ill. Adm. Code 112.....	14263
Aid to the Aged, Blind or Disabled	
89 Ill. Adm. Code 113.....	14279
Supplemental Nutrition Assistance Program (SNAP)	
89 Ill. Adm. Code 121.....	14296
AGING, DEPARTMENT ON	
Adult Protection and Advocacy Services	
89 Ill. Adm. Code 270.....	14309
ENVIRONMENTAL PROTECTION AGENCY, ILLINOIS	
Collection of Out-of-Service Mercury Thermostats	
35 Ill. Adm. Code 190.....	14342
SECRETARY OF STATE	
Issuance of Licenses	
92 Ill. Adm. Code 1030.....	14350

ADOPTED RULES

HUMAN SERVICES, DEPARTMENT OF	
Alcoholism and Substance Abuse Treatment and Intervention Licenses	
77 Ill. Adm. Code 2060.....	14377
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF	
Medical Payment	
89 Ill. Adm. Code 140.....	14383
INSURANCE, DEPARTMENT OF	
Universal Life Insurance	
50 Ill. Adm. Code 1411.....	14435
ENVIRONMENTAL PROTECTION AGENCY, ILLINOIS	
Procedures for Issuing Loans From the Water Pollution Control	
Loan Program	
35 Ill. Adm. Code 365.....	14442
SECRETARY OF STATE	
Certificates of Title, Registration of Vehicles	
92 Ill. Adm. Code 1010.....	14450

JOINT COMMITTEE ON ADMINISTRATIVE RULES STATEMENT OF OBJECTION

HOUSING DEVELOPMENT AUTHORITY, ILLINOIS	
Public Information, Rulemaking and Organization	
2 Ill. Adm. Code 1975.....	14465

SECOND NOTICES RECEIVED

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received.....14466

**OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE
ILLINOIS REGISTER**

HUMAN SERVICES, DEPARTMENT OF
Alcoholism and Substance Abuse Treatment and Intervention Licenses
(Agency Response to JCAR Objection)
77 Ill. Adm. Code 2060.....14467

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 2018

Issue#	Rules Due Date	Date of Issue
1	December 26, 2017	January 5, 2018
2	January 2, 2018	January 12, 2018
3	January 8, 2018	January 19, 2018
4	January 16, 2018	January 26, 2018
5	January 22, 2018	February 2, 2018
6	January 29, 2018	February 9, 2018
7	February 5, 2018	February 16, 2018
8	February 13, 2018	February 23, 2018
9	February 20, 2018	March 2, 2018
10	February 26, 2018	March 9, 2018
11	March 5, 2018	March 16, 2018
12	March 12, 2018	March 23, 2018
13	March 19, 2018	March 30, 2018
14	March 26, 2018	April 6, 2018
15	April 2, 2018	April 13, 2018
16	April 9, 2018	April 20, 2018
17	April 16, 2018	April 27, 2018
18	April 23, 2018	May 4, 2018
19	April 30, 2018	May 11, 2018
20	May 7, 2018	May 18, 2018
21	May 14, 2018	May 25, 2018
22	May 21, 2018	June 1, 2018
23	May 29, 2018	June 8, 2018
24	June 4, 2018	June 15, 2018
25	June 11, 2018	June 22, 2018

26	June 18, 2018	June 29, 2018
27	June 25, 2018	July 6, 2018
28	July 2, 2018	July 13, 2018
29	July 9, 2018	July 20, 2018
30	July 16, 2018	July 27, 2018
31	July 23, 2018	August 3, 2018
32	July 30, 2018	August 10, 2018
33	August 6, 2018	August 17, 2018
34	August 13, 2018	August 24, 2018
35	August 20, 2018	August 31, 2018
36	August 27, 2018	September 7, 2018
37	September 4, 2018	September 14, 2018
38	September 10, 2018	September 21, 2018
39	September 17, 2018	September 28, 2018
40	September 24, 2018	October 5, 2018
41	October 1, 2018	October 12, 2018
42	October 9, 2018	October 19, 2018
43	October 15, 2018	October 26, 2018
44	October 22, 2018	November 2, 2018
45	October 29, 2018	November 9, 2018
46	November 5, 2018	November 16, 2018
47	November 13, 2018	November 26, 2018
48	November 19, 2018	November 30, 2018
49	November 26, 2018	December 7, 2018
50	December 3, 2018	December 14, 2018
51	December 10, 2018	December 21, 2018
52	December 17, 2018	December 28, 2018

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Number: 112.110 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13] and PA 99-145.
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to PA 99-145, this rulemaking adds Achieving a Better Life Experience (ABLE) accounts as a type of unearned income and assets exempt from consideration in determining eligibility and level of assistance for TANF.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this rulemaking replace an 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 create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

Springfield IL 62762

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2017

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

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

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

112.69 Felons and Violators of Parole or Probation

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section

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

SUBPART E: PROJECT ADVANCE

Section

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

SUBPART F: EXCHANGE PROGRAM

Section

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

112.98 Exchange Program (Repealed)

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 112.152 Asset Disregards (Repealed)
- 112.153 Deferral of Consideration of Assets (Repealed)
- 112.154 Property Transfers (Repealed)
- 112.155 Income Limit
- 112.156 Assets for Independence Program

SUBPART H: PAYMENT AMOUNTS

Section

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

SUBPART I: OTHER PROVISIONS

Section

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

Facilities (Repealed)

SUBPART J: CHILD CARE

Section

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

SUBPART K: TRANSITIONAL CHILD CARE

Section

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

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

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; preemptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; preemptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14420, effective July 24, 1998; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 598, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 942, effective January 6, 1999; emergency amendment at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1682, effective January 20, 1999; emergency amendment at 23 Ill. Reg. 5881, effective May 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6958, effective May 30, 1999; amended at 23 Ill. Reg. 7091, effective June 4, 1999; amended at 23 Ill. Reg. 7896, effective July 1, 1999; emergency amendment at 23 Ill. Reg. 8672, effective July 13, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 10530, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12648, effective September 27, 1999; amended at 23 Ill. Reg. 13898, effective November 19, 1999; amended at 24 Ill. Reg. 289, effective December 28, 1999; amended at 24 Ill. Reg. 2348, effective February 1, 2000; amended at 25 Ill. Reg. 10336, effective August 3, 2001; emergency amendment at 25 Ill. Reg. 11584, effective September 1, 2001, for a maximum of 150 days;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

amended at 25 Ill. Reg. 14865, effective November 1, 2001; amended at 26 Ill. Reg. 138, effective January 1, 2002; amended at 26 Ill. Reg. 924, effective January 15, 2002; emergency amendment at 26 Ill. Reg. 3329, effective February 19, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9803, effective June 24, 2002; amended at 26 Ill. Reg. 10492, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10994, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17182, effective November 15, 2002; amended at 27 Ill. Reg. 4545, effective February 28, 2003; amended at 27 Ill. Reg. 7240, effective April 7, 2003; amended at 27 Ill. Reg. 18417, effective November 20, 2003; amended at 28 Ill. Reg. 1090, effective December 31, 2003; amended at 28 Ill. Reg. 5655, effective March 22, 2004; amended at 29 Ill. Reg. 5473, effective April 1, 2005; amended at 29 Ill. Reg. 8161, effective May 18, 2005; emergency amendment at 29 Ill. Reg. 16008, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; amended at 30 Ill. Reg. 9331, effective May 8, 2006; amended at 30 Ill. Reg. 11202, effective June 12, 2006; amended at 31 Ill. Reg. 6968, effective April 30, 2007; amended at 31 Ill. Reg. 10462, effective July 6, 2007; amended at 31 Ill. Reg. 15080, effective October 24, 2007; amended at 32 Ill. Reg. 2767, effective February 7, 2008; emergency amendment at 32 Ill. Reg. 10607, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17167, effective October 20, 2008; peremptory amendment at 32 Ill. Reg. 18051, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4977, effective March 19, 2009, for a maximum of 150 days; emergency expired August 15, 2009; emergency amendment at 33 Ill. Reg. 7320, effective May 21, 2009, for a maximum of 150 days; emergency expired October 17, 2009; amended at 33 Ill. Reg. 12763, effective September 8, 2009; amended at 33 Ill. Reg. 13831, effective September 17, 2009; amended at 33 Ill. Reg. 16828, effective November 30, 2009; emergency amendment at 34 Ill. Reg. 6930, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 10085, effective July 1, 2010; amended at 35 Ill. Reg. 998, effective December 28, 2010; emergency amendment at 35 Ill. Reg. 6933, effective April 6, 2011, for a maximum of 150 days; emergency expired September 2, 2011; amended at 35 Ill. Reg. 17082, effective October 5, 2011; amended at 35 Ill. Reg. 18739, effective October 28, 2011; amended at 36 Ill. Reg. 15120, effective September 28, 2012; emergency amendment at 37 Ill. Reg. 15388, effective September 9, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 4441, effective January 29, 2014; amended at 38 Ill. Reg. 17603, effective August 8, 2014; amended at 38 Ill. Reg. 18646, effective August 29, 2014; amended at 39 Ill. Reg. 15563, effective December 1, 2015; amended at 41 Ill. Reg. 395, effective January 1, 2017; amended at 42 Ill. Reg. 8295, effective May 4, 2018; amended at 42 Ill. Reg. _____, effective _____.

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section 112.110 Exempt Unearned Income

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

The following unearned income shall be exempt from consideration in determining eligibility and the level of assistance payment:

- a) The value of the benefit allotment under the Food and Nutrition Act of 2008 (7 USC 2017(b));
- b) The value of the U.S. Department of Agriculture donated foods (surplus commodities);
- c) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4636);
- d) Any funds distributed per capita to or held in trust for members of any Indian Tribe under P.L. 92-254, P.L. 93-134, P.L. 94-114 or P.L. 94-540;
- e) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended (42 USC 3045 et seq.);
- f) Any compensation provided to individual volunteers under the Volunteers in Service to America (VISTA) Program (known as AmeriCorps VISTA). Payments made under Americorps State/National programs, funded under the National and Community Service Act of 1993, are not exempt. Stipends or living allowance payments made under this program are considered nonexempt earned income. These payments are subject to the general rules concerning the budgeting of earned income;
- g) Income received under the provisions of Section 4(c) of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25/4]. This includes both the benefits commonly known as the circuit breaker and additional grants;
- h) Payments for supporting services or reimbursement for out-of-pocket expenses made to volunteers serving as senior health aides, senior companions, foster grandparents, and persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III, pursuant to Section 418 of P.L. 93-113;
- i) Unearned income such as need based payments, cash assistance, compensation in

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

lieu of wages and allowances received through the Workforce Investment Act (WIA);

- j) Social Security death benefit expended on a funeral and/or burial;
- k) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended (42 USC 1780(b)) and the special food service program for children under the Richard B. Russell National School Lunch Act, as amended (42 USC 1760);
- l) Tax exempt portions of payments made pursuant to the Alaska Native Claims Settlement Act (43 USC 1626);
- m) Payments received under Title I of P.L. 100-383 of the Civil Liberties Act of 1988 (50 USC 1989b through 1989b-8);
- n) Payments received under Title II of P.L. 100-383 of the Aleutian and Pribilof Islands Restitution Act (50 USC 1989c through 1989c-8);
- o) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump-sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201;
- p) Payments received under the federal Radiation Exposure Compensation Act (42 USC 2210 nt);
- q) Federal subsidized housing payments under section 8 of the Housing and Community Development Act (42 USC 1437f);
- r) Any adoption subsidy payment or foster care payment received from DCFS or from a state welfare agency of another state are exempt for MAG and MANG. Independent Living Arrangement Payments are not exempt for MAG and MANG;
- s) Supportive Service payments (Section 112.82);
- t) Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to Section 2605(f) of P.L. 97-35;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- u) Disaster relief payments provided by federal, state or local government or a disaster assistance organization;
- v) Any payment provided by the Department of Human Services under the Family Assistance Program for Children with Mental Disabilities [405 ILCS 80/Art. III];
- w) A nonrecurring lump-sum SSI or SSA payment made to an individual in a TANF assistance unit. The nonrecurring SSA lump sum is exempt if it is based on disability. The monthly amount, up to the monthly SSI level for one, is exempt. For those individuals not in a TANF assistance unit whose income is used to determine TANF eligibility for others (for example, the parent of a person under age 18 who is receiving assistance as a parent), the lump-sum payment is nonexempt income for the month received;
- x) Payments made to individuals because of their status as victims of Nazi persecution pursuant to P.L. 103-286;
- y) Payments to a member of the Passamquoddy Indian Tribe, the Penobscot Nation of the Houlton Band of the Maliseet Indians pursuant to the Maine Indian Claims Settlement Act of 1980;
- z) Up to \$2000 per year of income received by individual Indians, which is derived from leases or other uses of individually-owned trust or restricted lands pursuant to Section 13736 of P.L. 103-66;
- aa) Payments based on disability status are disregarded in an amount up to the Supplemental Security Income (SSI) payment level for one person with no income. This disregard applies to disability benefits from Social Security (including SSI), Railroad Retirement Disability, Department of Veterans' Affairs (100% disability only) and Black Lung;
- bb) Payments made under the federal Crime Act of 1984 (as amended by P.L. 104-132, Section 234, Crime Victims Fund);
- cc) Inconsequential income, which is defined as gifts, prizes or other unearned income (excluding that which is otherwise exempted in this Section) of up to \$50 per person per quarter;
- dd) The value of home produce that is used for personal consumption;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- ee) Child support payments made to an assistance unit by the Department or non-custodial parent that represent the first \$100 or any lesser amount of support collected in a month for a family with one child, or \$200 or any lesser amount of support collected in a month for a family with two or more children;
- ff) Three dollars of every \$4 of excess child support distributed by the child support agency to a family with earnings budgeted. This includes the wage supplementation programs of on-the-job training, Job Corps, AmeriCorps VISTA, and work study;
- gg) Payments from the principal or trust of a trust fund made to or on behalf of a dependent child when the court orders the money released for a specific purpose other than the income maintenance needs of the child;
- hh) Earmarked child support payments received by the client for the support of a child not included in the assistance unit;
- ii) Cash that is exchanged for purposes of satisfying payment of shelter-related obligations in situations in which the assistance unit shares a dwelling unit with another family, individual or individuals. The money is not available to meet the needs of the party who received and disburses the shelter-related payment;
- jj) Employment-related reimbursements for past or future expenses to the extent that they do not exceed actual expenses incurred and do not represent a gain or benefit to the client;
- kk) All educational loans, grants, scholarships, fellowships, veteran's educational benefits, and federal and State work study programs; and
- ll) Achieving a Better Life Experience (ABLE) accounts – All earnings on ABLE accounts are exempt. The balance of this account is to be exempt unearned income.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Aid to the Aged, Blind or Disabled
- 2) Code Citation: 89 Ill. Adm. Code 113
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
113.113	Amendment
113.141	Amendment
- 4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13] and PA 99-0145.
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to PA 99-145, this rulemaking adds Achieving a Better Life Experience (ABLE) accounts as a type of unearned income and assets exempt from consideration in determining eligibility and level of assistance for AABD.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this rulemaking replace an 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>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
113.253	Amendment	42 Ill. Reg. 5676; March 30, 2018
113.260	Amendment	42 Ill. Reg. 5676; March 30, 2018
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2017

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

PART 113
AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

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

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

SUBPART D: PAYMENT AMOUNTS

- Section
- 113.245 Payment Levels for AABD
- 113.246 Personal Allowance
- 113.247 Personal Allowance Amounts
- 113.248 Shelter

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

SUBPART E: OTHER PROVISIONS

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

SUBPART F: INTERIM ASSISTANCE

Section	
113.400	Description of the Interim Assistance Program

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 113.405 Pending SSI Application (Repealed)
- 113.410 More Likely Than Not Eligible for SSI (Repealed)
- 113.415 Non-Financial Factors of Eligibility (Repealed)
- 113.420 Financial Factors of Eligibility (Repealed)
- 113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)
- 113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)
- 113.435 Medical Eligibility (Repealed)
- 113.440 Attorney's Fees for SSI Applicants (Repealed)
- 113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)
- 113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
- 113.500 Attorney's Fees for SSI Appellants (Renumbered)

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

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; emergency expired January 28, 1979; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of a 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 579, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1607, effective January 20, 1999; amended at 23 Ill. Reg. 5548, effective April 23, 1999; amended at 23 Ill. Reg. 6052, effective May 4, 1999; amended at 23 Ill. Reg. 6425, effective May 15, 1999; amended at 23 Ill. Reg. 6935, effective May 30, 1999; amended at 23 Ill. Reg. 7887, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8650, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10161, effective August 3, 1999; amended at 23 Ill. Reg. 13852, effective November 19, 1999; amended at 24 Ill. Reg. 2328, effective February 1, 2000; amended at 24 Ill. Reg. 11622, effective July 18, 2000; amended at 24 Ill. Reg. 13394, effective August 18, 2000; amended at 25 Ill. Reg. 5326, effective March 30, 2001; amended at 26 Ill. Reg. 179, effective January 1, 2002; amended at 26 Ill. Reg. 8532, effective May 31, 2002; amended at 26 Ill. Reg. 13521, effective September 3, 2002; amended at 27 Ill. Reg. 7252, effective April 7, 2003; amended at 28 Ill. Reg. 11139, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 11366, effective July 21, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12469, effective August 20, 2004, for a maximum of 150 days; emergency expired January 16, 2005; amended at 29 Ill. Reg. 648, effective December 16, 2004; amended at 29 Ill. Reg. 5703, effective April 11, 2005; amended at 29 Ill. Reg. 10176, effective July 5, 2005; amended at 30 Ill. Reg. 16065, effective September 21, 2006; amended at 31 Ill. Reg. 6981, effective April 30, 2007; amended at 31 Ill. Reg. 11306, effective July 19, 2007; amended at 32 Ill. Reg. 17187, effective October 16, 2008; peremptory amendment at 32 Ill. Reg. 18065, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4993, effective March 19, 2009, for a maximum of 150 days; emergency expired August 15, 2009; emergency amendment at 33 Ill. Reg. 7337, effective May 21, 2009, for a maximum of 150 days; emergency expired October 17, 2009; amended at 33 Ill. Reg. 12775, effective September 8, 2009; emergency amendment at 33 Ill. Reg. 12850, effective September 4, 2009, for a maximum of 150 days; emergency expired January 31, 2010; amended at 33 Ill. Reg. 13846, effective September 17, 2009; amended at 33 Ill. Reg. 15033, effective October 22, 2009; amended at 33 Ill. Reg. 16845, effective November 30, 2009; emergency amendment at 34 Ill. Reg. 6944, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 7255, effective May 10, 2010; amended at 35 Ill. Reg. 1012, effective December 28, 2010; emergency amendment at 35 Ill. Reg. 6951, effective April 6, 2011, for a maximum of 150 days; emergency expired September 2, 2011; amended at 35 Ill. Reg. 17096, effective October 5, 2011; amended at 35 Ill. Reg. 18756, effective October 28, 2011; amended at 36 Ill. Reg. 15195, effective October 5, 2012; emergency

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

amendment at 36 Ill. Reg. 17567, effective December 1, 2012 through June 30, 2013; amended at 37 Ill. Reg. 8728, effective June 11, 2013; amended at 37 Ill. Reg. 14876, effective August 27, 2013; amended at 38 Ill. Reg. 16229, effective July 18, 2014; emergency amendment at 38 Ill. Reg. 17470, effective July 30, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 22654, effective November 20, 2014; amended at 39 Ill. Reg. 13260, effective September 21, 2015; amended at 41 Ill. Reg. 10331, effective July 21, 2017; amended at 42 Ill. Reg. _____, effective _____.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 113.113 Exempt Unearned Income

- a) The following unearned income from governmental sources shall be exempt from consideration in determining eligibility for assistance and the amount of the assistance payment:
 - 1) The value of the benefit allotment under the Food and Nutrition Act of 2008 (7 USC 2017(b));
 - 2) The value of the U.S. Department of Agriculture donated foods (surplus commodities);
 - 3) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended (42 USC 1780(b)), and the special food service program for children under the Richard B. Russell National School Lunch Act, as amended (42 USC 1760);
 - 4) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended (42 USC 3045 et seq.);
 - 5) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4636);
 - 6) Any funds distributed per capita or held in trust for members of any Indian Tribe under P.L. 92-254, P.L. 93-134, or P.L. 94-540;
 - 7) Tax exempt portions of payments made pursuant to the Alaska Native Claims Settlement Act (42 USC 1601 et seq.);

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 8) Any compensation provided to individual volunteers under the Retired Senior Volunteer Program and the Foster Grandparent Program and Older Americans Community Service Programs established under Title VI of the Older Americans Act of 1965, as amended (42 USC 3045 et seq.);
- 9) Payments to Volunteers under the 1973 Domestic Volunteer Service Act (48 USC 5044(q)). These include:
 - A) Vista Volunteers; and
 - B) Volunteers serving as senior health aides, senior companions, foster grandparents, or persons serving in the Service Corps of Retired Executives (SCOPE) or the Active Corps of Executives (ACE);
- 10) Income received under the provisions of Section 1 of the Illinois Senior Citizens and Disabled Persons Property Tax Relief Act [320 ILCS 25/1]. This includes both the benefits commonly known as the "circuit breaker" and "additional grants";
- 11) Experimental Housing Allowance Program payments made under Annual Contributions Contracts entered into prior to January 1, 1975 under Section 23 of the U.S. Housing Act of 1937, as amended (42 USC 1437(f));
- 12) Any payments distributed per capita or held in trust for members of Indian tribes under Sections 5 of P.L. 94-114 that became effective October 17, 1975;
- 13) SSI lump sum payments received by MANG participants who reside in the community (not residing in a long term care facility, DMHDD facility or other medical facility);
- 14) Any adoption subsidy received from DCFS;
- 15) Any foster care payment received from DCFS except independent living arrangement payments;
- 16) Title IV-E adoption assistance or foster care payment received from a state

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

welfare agency of another state are exempt for MANG;

- 17) Any payment received from the Self Sufficiency Trust Fund established in accordance with Section 21.1 of the Department of Mental Health and Developmental Disabilities Act [20 ILCS 1705/21.1];
- 18) Any payment received under Title I of P.L. 100-383, the Civil Liberties Act of 1988, which provides that restitution shall be made to United States citizens and permanent resident aliens of Japanese ancestry who were interned during World War II;
- 19) Any payment received under Title II of P.L. 100-383, the Aleutian and Pribilof Islands Restitution Act, which provides that restitution shall be made to any Aleut living on the date of enactment of P.L. 100-383 (August 10, 1988) who, as a civilian, was relocated by authority of the United States from his or her home village on the Pribilof Islands or the Aleutian Islands west of Unimak Island to an internment camp, or other temporary facility or location during World War II; or who was born while his or her natural mother was subject to such relocation;
- 20) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201;
- 21) Payments received under the Radiation Exposure Compensation Act (42 USC 2210);
- 22) Money received from the Social Security Administration under a Plan to Achieve Self-Support (PASS) (see 42 USC 1382a);
- 23) Earnings, allowances, and payments received under Title I of the National and Community Service Act of 1990 (42 USC 12501);
- 24) Disaster relief payments provided by federal, state or local government or a disaster assistance organization;
- 25) The amount of earned income tax credit which the client receives as advance payment or as a refund of federal income tax;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 26) German reparation payments made under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution (Germany Restitution Act) to survivors of the Holocaust (see 20 CFR 416.1124b) (2009);
 - 27) Payments of up to \$2000 per year derived from individual interests in Indian trust or restricted lands under P.L. 103-66;
 - 28) Payments made under the federal Crime Act of 1984 (as amended by P.L. 104-132, Section 234, Crime Victims Fund);
 - 29) The \$25 per week increase in Unemployment Compensation Benefits authorized under the American Recovery and Reinvestment Act of 2009 (Div. B, Title II, Sec. 2002 of P.L. 111-5);
 - 30) The Economic Recovery Payment to recipients of Social Security, Supplemental Security Income (SSI), Railroad Retirement Benefits, and Veterans Disability Compensation or Pension Benefits authorized under the American Recovery and Reinvestment Act of 2009 (Div. B, Title II, Sec. 2001 of P.L. 111-5); ~~and~~
 - 31) Payments to eligible persons who served in the United States Armed Forces in the Far East during World War II authorized under the American Recovery and Reinvestment Act of 2009 (Div. A, Title X, Sec. 1002 of P.L. 111-5); ~~and-~~
 - 32) [Achieving a Better Life Experience \(ABLE\) account balance and earnings.](#)
- b) In addition to the unearned income listed in subsection (a), the following unearned income from non-governmental sources shall be exempt from consideration in determining eligibility for assistance and amount of the assistance payment:
- 1) The value of home produce which is used for personal consumption; and
 - 2) Social Security death benefit expended on a funeral and/or burial.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 113.141 Exempt Assets

- a) The following assets are exempt from consideration in determining eligibility for assistance and the amount of the assistance payment:
 - 1) Homestead property.
 - 2) Personal Property
 - A) Personal effects extraordinarily and household goods of reasonable value (reasonable value means the client's equity value in the property does not exceed \$2,000). Wedding and engagement rings and items required due to medical or physical condition.
 - B) Regardless of the value, personal effects and household goods are exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described at 89 Ill. Adm. Code 120.386).
 - 3) Resources (for example, land, buildings, equipment and supplies or tools) necessary for self-support up to \$6,000 of the individual's equity in the income producing property, provided the property produces a net annual income of at least 6% of the excluded equity value of the property. The equity value in excess of \$6,000 is applied toward the asset disregard. If the activity produces income less than 6% of the exempt equity due to reasons beyond the individual's control (for example, the individual's illness or crop failure) and there is a reasonable expectation that the individual's activity will increase to produce income equal to 6% of the equity value (for example, the medical prognosis is that the individual is expected to respond to treatment or drought resistance corn will be planted), the property is exempt. If the individual owns more than one piece of property and each produces income, each is looked at to see if the 6% rule is met and then the amount of the individual's equity in all of those properties are totaled to see if the total equity is \$6,000 or less.
 - 4) Automobile
 - A) exclude one automobile, regardless of value, used by the client,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

spouse, or other dependent if:

- i) it is necessary for employment;
 - ii) it is necessary for the medical treatment of a specific or regular medical problem;
 - iii) it is modified for operation by or transportation of a handicapped person;
 - iv) it is necessary because of factors such as climate, terrain or distance to provide necessary transportation to perform essential daily activities; or
 - v) one vehicle for each spouse is exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described at 89 Ill. Adm. Code 120.386).
- B) if not excluded in subsection (a)(4)(A), exclude one automobile to the extent the fair market value does not exceed \$4,500. Apply the excess fair market value toward the asset disregard (see Section 113.142). The Department will determine fair market value in accordance with 89 Ill. Adm. Code 121.57(b)(2)(D)(iv).
- C) for all other automobiles, apply the equity value (fair market value minus any encumbrance) toward the asset disregard (see Section 113.142).
- 5) Life insurance policies with a total face value of \$1,500 or less and all term life insurance policies. If total face value exceeds \$1,500, the cash surrender value must be counted as a resource.
- b) Burial spaces and funds are exempt as follows:
- 1) Burial spaces that are intended for the use of the individual, his or her spouse, or any other member of his or her immediate family. Immediate family is defined as an individual's minor and adult children, including adopted children and step-children, an individual's brothers, sisters, parents, adoptive parents, and the spouses of these individuals.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 2) Funds set aside for the burial expenses of the individual and his or her spouse, subject to a limit of \$1,500 each. This limit will be reduced by the face value of any excluded life insurance policy and the amount of any funds held in an irrevocable trust or other irrevocable arrangement that are available for burial expenses.
 - 3) Interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements that occurred the earlier of the date of first SSI eligibility or the date of AABD eligibility, but no earlier than November 1, 1982 (see 20 CFR 416.1231(b)(5) (2009)).
 - 4) Funds specifically and irrevocably set aside for the professional funeral services and burial expenses of the individual and his or her spouse, subject to a limit of \$5,874 each, including prepaid funeral and burial plans. This amount will be adjusted annually for any increase in the Consumer Price Index for All Urban Users (CPI-U).
- c) Assets necessary for fulfillment of an approved plan for achieving self support.
 - d) Trust funds are exempt as follows:
 - 1) The principal of a trust fund only when the instrument establishing the trust specifically states the principal cannot be impaired.
 - 2) The principal of a trust fund established under the Self Sufficiency Trust Fund Program [20 ILCS 1705/21.1].
 - e) Assets excluded by express provision of 20 CFR 416.1236 (2009).
 - f) Donations or benefits from fund raisers held for a seriously ill client provided the client or a responsible relative of the client does not have control (for example, not available to the client or the responsible relative) over the donations or benefits or the disbursement of donations or benefits.
 - g) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- h) Money received from the Social Security Administration under a Plan to Achieve Self-Support (PASS) and held in a separate account.
- i) Disaster relief payments provided by federal, state or local government or a disaster assistance organization.
- j) The amount of earned income tax credit that the client receives as advance payment or as a refund of federal income tax.
- k) The Economic Recovery Payment to recipients of Social Security, Supplemental Security Income (SSI), Railroad Retirement Benefits, and Veterans Disability Compensation or Pension Benefits authorized under section 2201 of the American Recovery and Reinvestment Act of 2009 (26 USC 6428 note).
- l) Payments to eligible persons who served in the United States Armed Forces in the Far East during World War II authorized under section 1002 of the American Recovery and Reinvestment Act of 2009 (38 USC 107 note).
- m) [Achieving a Better Life Experience \(ABLE\) account balance and earnings.](#)

(Source: Amended at 42 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Supplemental Nutrition Assistance Program (SNAP)
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Number: 121.57 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13] and PA 99-145.
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to PA 99-145, this rulemaking adds Achieving a Better Life Experience (ABLE) accounts as a type of unearned income and assets exempt from consideration in determining eligibility and level of assistance for SNAP.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this rulemaking replace an 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 create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2017

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

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

PART 121
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

SUBPART A: APPLICATION PROCEDURES

Section

- 121.1 Application for Assistance
- 121.2 Time Limitations on the Disposition of an Application
- 121.3 Approval of an Application and Initial Authorization of Assistance
- 121.4 Denial of an Application
- 121.5 Client Cooperation
- 121.6 Emergency Assistance
- 121.7 Expedited Service
- 121.8 Express Stamps Application Project
- 121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.18 Work Requirement
- 121.19 Ending a Voluntary Quit Disqualification (Repealed)
- 121.20 Citizenship
- 121.21 Residence
- 121.22 Social Security Numbers
- 121.23 Work Registration/Participation Requirements
- 121.24 Individuals Exempt from Work Registration Requirements
- 121.25 Failure to Comply with Work Provisions
- 121.26 Periods of Sanction
- 121.27 Voluntary Job Quit/Reduction in Work Hours
- 121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
- 121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits (Repealed)
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomers or Boarders
121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions from Monthly Income
121.64	Supplemental Nutrition Assistance Program (SNAP) Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Categorically Eligible Households

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

Section	
121.80	Fraud Disqualification (Renumbered)
121.81	Initiation of Administrative Fraud Hearing (Repealed)
121.82	Definition of Fraud (Renumbered)
121.83	Notification To Applicant Households (Renumbered)
121.84	Disqualification Upon Finding of Fraud (Renumbered)
121.85	Court Imposed Disqualification (Renumbered)
121.90	Monthly Reporting and Retrospective Budgeting (Repealed)
121.91	Monthly Reporting (Repealed)
121.92	Budgeting
121.93	Issuance of Food Stamp Benefits
121.94	Replacement of the EBT Card or SNAP Benefits
121.95	Restoration of Lost Benefits
121.96	Uses for SNAP Benefits
121.97	Supplemental Payments
121.98	Client Training Brochure for the Electronic Benefits Transfer (EBT) System
121.105	State Food Program (Repealed)
121.107	New State Food Program
121.108	Transitional Food Stamp (TFS) Benefits
121.117	Farmers' Market Technology Improvement Program
121.120	Redetermination of Eligibility
121.125	Simplified Reporting
121.130	Residents of Shelters for Battered Women and their Children
121.131	Fleeing Felons and Probation/Parole Violators
121.135	Incorporation By Reference
121.136	Food and Nutrition Act of 2008
121.140	Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
121.145	Quarterly Reporting (Repealed)

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section	
121.150	Definition of Intentional Violations of the Program
121.151	Penalties for Intentional Violations of the Program
121.152	Notification To Applicant Households
121.153	Disqualification Upon Finding of Intentional Violation of the Program
121.154	Court Imposed Disqualification

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section

121.160	Persons Required to Participate
121.162	Program Requirements
121.163	Vocational Training
121.164	Orientation (Repealed)
121.165	Community Work
121.166	Assessment and Employability Plan (Repealed)
121.167	Counseling/Prevention Services
121.170	Job Search Activity
121.172	Basic Education Activity
121.174	Job Readiness Activity
121.176	Work Experience Activity
121.177	Illinois Works Component (Repealed)
121.178	Job Training Component (Repealed)
121.179	JTPA Employability Services Component (Repealed)
121.180	Grant Diversion Component (Repealed)
121.182	Earnfare Activity
121.184	Sanctions for Non-cooperation with Food Stamp Employment and Training
121.186	Good Cause for Failure to Cooperate
121.188	Supportive Services
121.190	Conciliation
121.200	Types of Claims (Recodified)
121.201	Establishing a Claim for Intentional Violation of the Program (Recodified)
121.202	Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
121.203	Collecting Claim Against Households (Recodified)
121.204	Failure to Respond to Initial Demand Letter (Recodified)
121.205	Methods of Repayment of Food Stamp Claims (Recodified)
121.206	Determination of Monthly Allotment Reductions (Recodified)
121.207	Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
121.208	Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section

121.220	Work Requirement Components (Repealed)
121.221	Meeting the Work Requirement with the Earnfare Component (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 121.222 Volunteer Community Work Component (Repealed)
- 121.223 Work Experience Component (Repealed)
- 121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
- 121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
- 121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

no substantive change) at 8 Ill. Reg. 17898; preemptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; preemptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; preemptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; preemptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; preemptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; preemptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; preemptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; preemptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; preemptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; preemptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; preemptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; preemptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; preemptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; preemptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; preemptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; preemptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; preemptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; preemptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; preemptory amendment at 26 Ill. Reg. 15099, effective October 1, 2002; amended at 26 Ill. Reg. 16484, effective October 25, 2002; amended at 27 Ill. Reg. 2889, effective February 7, 2003; expedited correction at 27 Ill. Reg. 14262, effective February 7, 2003; amended at 27 Ill. Reg. 4583, effective February 28, 2003; amended at 27 Ill. Reg. 7273, effective April 7, 2003; amended at 27 Ill. Reg. 12569, effective July 21, 2003; preemptory amendment at 27 Ill. Reg. 15604, effective October 1, 2003; amended at 27 Ill. Reg. 16108, effective October 6, 2003; amended at 27 Ill. Reg. 18445, effective November 20, 2003; amended at 28 Ill. Reg. 1104, effective December 31, 2003; amended at 28 Ill. Reg. 3857, effective February 13, 2004; amended at 28 Ill. Reg. 10393, effective July 6, 2004; preemptory amendment at 28 Ill. Reg. 13834, effective October 1, 2004; emergency amendment at 28 Ill. Reg. 15323, effective November 10, 2004, for a maximum of 150 days; emergency expired April 8, 2005; amended at 29 Ill. Reg. 2701, effective February 4, 2005; amended at 29 Ill. Reg. 5499, effective April 1, 2005; preemptory amendment at 29 Ill. Reg. 12132, effective July 14, 2005; emergency amendment at 29 Ill. Reg. 16042, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; preemptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005; emergency amendment at 30 Ill. Reg. 7804, effective April 6, 2006, for a maximum of 150 days; emergency expired September 2, 2006; amended at 30 Ill. Reg. 11236, effective June 12, 2006; amended at 30 Ill. Reg. 13863, effective August 1, 2006; amended at 30 Ill. Reg. 15681, effective September 12, 2006; preemptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006; amended at 31 Ill. Reg. 6991, effective April 30, 2007; amended at 31 Ill. Reg. 10482, effective July 9, 2007; amended at 31 Ill. Reg. 11318, effective July 23, 2007; preemptory amendment at 31 Ill. Reg. 14372, effective October 1, 2007; amended at 32 Ill. Reg. 2813, effective February 7, 2008; amended at 32 Ill. Reg. 4380, effective March 12, 2008; amended at 32 Ill. Reg. 4813, effective March 18, 2008; amended at 32 Ill. Reg. 9621, effective June 23, 2008; preemptory amendment at 32 Ill. Reg. 16905, effective October 1, 2008; preemptory amendment to Sections 121.94(c), 121.96(d)(2) and 121.150(b) suspended at 32 Ill. Reg. 18908, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 200, effective February 5, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 3514, effective February 5, 2009, for a maximum of 150 days; preemptory amendment at 32 Ill. Reg. 18092, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4187, effective February 24, 2009, for a maximum of 150 days; emergency expired July 23, 2009; preemptory amendment at 33 Ill. Reg. 5537,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

effective April 1, 2009; emergency amendment at 33 Ill. Reg. 11322, effective July 20, 2009, for a maximum of 150 days; emergency expired December 16, 2009; amended at 33 Ill. Reg. 12802, effective September 3, 2009; amended at 33 Ill. Reg. 14121, effective September 22, 2009; emergency amendment at 33 Ill. Reg. 14627, effective October 13, 2009, for a maximum of 150 days; emergency expired March 11, 2010; amended at 33 Ill. Reg. 16875, effective November 30, 2009; amended at 33 Ill. Reg. 17350, effective December 14, 2009; amended at 34 Ill. Reg. 4777, effective March 17, 2010; amended at 34 Ill. Reg. 5295, effective April 12, 2010; amended at 34 Ill. Reg. 5823, effective April 19, 2010; emergency amendment at 34 Ill. Reg. 6967, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 7265, effective May 10, 2010; amended at 34 Ill. Reg. 7685, effective May 18, 2010; amended at 34 Ill. Reg. 12547, effective August 11, 2010; preemptory amendment at 34 Ill. Reg. 15543, effective October 1, 2010; amended at 35 Ill. Reg. 1042, effective December 28, 2010; amended at 35 Ill. Reg. 7688, effective April 29, 2011; amended at 35 Ill. Reg. 10119, effective June 7, 2011; preemptory amendment at 35 Ill. Reg. 16118, effective October 1, 2011; preemptory amendment at 35 Ill. Reg. 16904, effective October 1, 2011; amended at 35 Ill. Reg. 17120, effective October 5, 2011; amended at 35 Ill. Reg. 18780, effective October 28, 2011; amended at 35 Ill. Reg. 19278, effective November 8, 2011; amended at 35 Ill. Reg. 19778, effective December 5, 2011; preemptory amendment at 36 Ill. Reg. 15148, effective October 1, 2012; emergency amendment at 37 Ill. Reg. 15423, effective September 9, 2013, for a maximum of 150 days; preemptory amendment at 37 Ill. Reg. 16016, effective October 1, 2013; emergency amendment at 37 Ill. Reg. 16845, effective October 1, 2013, for a maximum of 150 days; preemptory amendment at 37 Ill. Reg. 17983, effective November 1, 2013; amended at 38 Ill. Reg. 4475, effective January 29, 2014; amended at 38 Ill. Reg. 5382, effective February 7, 2014; emergency amendment at 38 Ill. Reg. 8414, effective April 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 17616, effective August 8, 2014; preemptory amendment at 38 Ill. Reg. 19831, effective October 1, 2014; amended at 39 Ill. Reg. 6470, effective April 22, 2015; preemptory amendment at 39 Ill. Reg. 13513, effective October 1, 2015; amended at 39 Ill. Reg. 15577, effective December 1, 2015; amended at 40 Ill. Reg. 360, effective January 1, 2016; preemptory amendment at 40 Ill. Reg. 14114, effective October 1, 2016; preemptory amendment at 41 Ill. Reg. 12905, effective October 1, 2017; amended at 42 Ill. Reg. 8310, effective May 4, 2018; amended at 42 Ill. Reg. 8505, effective May 8, 2018; amended at 42 Ill. Reg. _____, effective _____.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 121.57 Assets

- a) The value of nonexempt assets shall be considered in determining eligibility only if a household is not categorically eligible (see Section 121.76).

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- b) Value of Nonexempt Assets
- 1) The value of nonexempt assets is the equity value (fair market value less the amount owed), except for prepaid funeral agreements valued over \$1500.
 - 2) The Department considers the following assets in determining eligibility:
 - A) Liquid Assets
 - i) Liquid assets are those properties in the form of cash or other financial instruments that are convertible to cash, such as, but not limited to, cash on hand, money, in checking or savings accounts, credit union accounts, savings certificates, stocks or bonds, lump-sum payments, and prepaid funeral agreements.
 - ii) Exempt any retirement funds in a plan, contract, or account, described in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986 and the value of funds in a Federal Thrift Savings Plan account as provided in section 8439 of title 5, United States Code. Exempt any funds in a qualified tuition program described in section 529 of the Internal Revenue Code of 1986 or in a Coverdell education savings account under section 530 of that Code. [Exempt any funds and earnings from an Achieving a Better Life Experience \(ABLE\) account.](#)
 - B) Nonliquid Assets
Nonliquid assets are those properties that are not in the form of cash or other financial instruments, such as personal property, licensed vehicles, unlicensed vehicles, buildings, land, recreational properties, and any other property not specifically exempted in Section 121.58.
 - C) Assets of Sponsors of Aliens
Consider the assets of the sponsor and the sponsor's spouse who

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

sponsored an alien on or after February 1, 1983 (7 CFR 272.1(g)(54) (2012)) in accordance with Section 121.55.

- D) Prepaid Funeral Agreements
The value of prepaid funeral agreements over \$1500 per person is considered.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Adult Protection and Advocacy Services
- 2) Code Citation: 89 Ill. Adm. Code 270
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
270.100	Amendment
270.105	Amendment
270.110	Repealed
270.115	Amendment
270.120	Repealed
270.130	Amendment
270.132	New Section
270.134	New Section
270.136	New Section
270.138	New Section
270.140	New Section
270.142	New Section
270.144	New Section
270.146	New Section
270.148	New Section
270.150	New Section
270.152	New Section
270.154	New Section
270.156	New Section
270.158	New Section
270.160	New Section
270.162	New Section
270.450	Amendment
- 4) Statutory Authority: Implementing Section 4.04 and authorized by Section 4.04 of the Illinois Act on the Aging [20 ILCS 105/4.04] and the Older Americans Act, 42 USC Section 3001 et seq. and implementing regulations under 45 CFR Part 1324.
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is a Subpart to the Adult Protection and Advocacy Services rules of the Department on Aging. The rules will update current Long-Term Care Ombudsman rules and incorporate recent federal regulations governing the program by reference. The rulemaking represents proactive efforts by the Department to adequately describe the purpose, administration, and duties under the Long-Term Care Ombudsman Program.

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

The Long-Term Care Ombudsman Program is a resident-directed advocacy program to protect and improve the quality of care and quality of life for residents of long-term care facilities and participants of a medical assistance waiver administered by the State of Illinois, or participants enrolled in a managed care organization that provide care coordination and other services to seniors and persons with disabilities. Ombudsman make every reasonable effort to assist, empower, represent, and advocate on behalf of residents and participants.

The rules also provide the duties and responsibilities of the Home Care Ombudsman.

The proposed amendment to Section 270.450 of the Adult Protective Service Registry is not a substantive change.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or enlarge any State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments on this proposed rulemaking within 45 days after the date of publication of this Notice to:

Tracey Trigillo
Deputy General Counsel
Illinois Department on Aging
One Natural Resources Way, #100
Springfield IL 62702-1271

Tracey.Trigillo@illinois.gov

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

217/785-3346

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking affects Area Agencies on Aging and Ombudsman Provider Agencies.
 - 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 2018

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

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGINGPART 270
ADULT PROTECTION AND ADVOCACY SERVICES

SUBPART A: INTRODUCTION

Section
270.10 Summary and Purpose

SUBPART B: LONG TERM CARE OMBUDSMAN PROGRAM

Section
270.100 Long Term_Care Ombudsman Program: [Purpose and Program Model](#)
270.105 Definitions
270.110 Responsibilities of the Department and the Office of the State Long Term Care Ombudsman ([Repealed](#))
270.115 Display of [the](#) Ombudsman Poster
270.120 Access to Resident Records ([Repealed](#))
270.130 Conflict of Interest
[270.132 Organizational Standards and Responsibilities: Department on Aging](#)
[270.134 Organizational Standards and Responsibilities: Office of the State Long-Term Care Ombudsman](#)
[270.136 Organizational Standards and Responsibilities: Area Agencies on Aging](#)
[270.138 Organizational Standards and Responsibilities: Ombudsman Provider Agencies](#)
[270.140 Access to Residents and Participants](#)
[270.142 Access to Resident and Participant Information and Records](#)
[270.144 Confidentiality and Disclosure](#)
[270.146 Ombudsman Services in Long-Term Care Facilities](#)
[270.148 Home Care Ombudsman Services](#)
[270.150 Joint Responsibilities of the Ombudsman and the Home Care Ombudsman Programs](#)
[270.152 Complaint Investigations](#)
[270.154 Willful Interference](#)
[270.156 Retaliation](#)
[270.158 Grievances Against an Ombudsman Related to the Performance of Duties](#)
[270.160 Multi-disciplinary Teams for Ombudsman Program](#)
[270.162 Immunity](#)

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: ADULT PROTECTIVE SERVICES PROGRAM

Section	
270.200	Purpose and Program Model
270.205	Adult Protective Services Program
270.210	Definitions
270.215	Organizational Standards and Responsibilities: Department on Aging
270.220	Organizational Standards and Responsibilities: Regional Administrative Agencies
270.221	Elder Abuse Fatality Review Teams
270.225	Organizational Standards and Responsibilities: Adult Protective Services Provider Agencies
270.230	Abuse Reporting
270.235	Immunity
270.240	Intake of Abuse, Neglect, and Financial Exploitation Reports
270.241	Reporting a Suspicious Death
270.245	Access to Alleged Victims and Relevant Records
270.250	Minimum Assessment and Classification Standards
270.255	Abuse, Neglect and Financial Exploitation Case Work, Follow-Up, Referrals and Case Closure
270.260	Authority to Consent and Court Petitions
270.265	Early Intervention Services
270.270	Multi-disciplinary Teams
270.275	Confidentiality and Disclosure

SUBPART D: ADULT PROTECTIVE SERVICES VOLUNTEER CORPS

Section	
270.280	Definitions
270.285	Selection and Screening
270.290	Training
270.295	Volunteer Agreement and Volunteer Responsibilities
270.300	Activities and Supervision

SUBPART E: ADULT PROTECTIVE SERVICE REGISTRY

Section	
270.400	Purpose of the Registry

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

270.402	Definitions
270.404	Access to and Use of the Registry
270.406	Notice to Eligible Adult, Guardian or Agent
270.408	Notice to the Caregiver's Employer
270.410	Notice to Long Term Care Facilities and Ombudsman
270.412	Verified and Substantiated Finding and Notice to Caregiver
270.414	Initiation of an Appeal
270.416	Collateral Action
270.418	Confidentiality
270.420	Removal from Registry
270.422	Initial and Amended Pleadings
270.424	Service
270.426	Answer
270.428	Representation
270.430	Venue and Testimony by Telephonic or Other Electronic Means
270.432	Pre-hearing Conferences
270.434	Consolidation of Matters for Hearing
270.436	Continuances
270.438	Motions
270.440	Subpoenas
270.442	Discovery; Exchange of Information
270.444	Evidence
270.446	Witness Testimony
270.448	Expert Testimony
270.450	Burden of Proof
270.452	Administrative Law Judge Qualifications, Potential Disqualification, and Authority
270.454	Translators and Accommodations
270.456	Costs
270.458	Improper or Ex Parte Communications
270.460	Variances
270.462	Waiver
270.464	Failure to Appear
270.466	Grounds for Dismissal
270.468	Withdrawal of a Matter
270.470	Post-hearing Motions and Briefs
270.472	Administrative Hearing Record
270.474	Final Administrative Decision
270.476	Appeal of Department Decisions

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

SUBPART F: FATALITY REVIEW TEAMS

Section

270.500 Fatality Review Team Advisory Council
270.505 Regional Interagency Fatality Review Teams

AUTHORITY: Implementing Section 4.04 of the Illinois Act on the Aging [20 ILCS 105] and 45 CFR 1324 and authorized by Section 4.04 of the Illinois Act on the Aging and the federal Older Americans Act (42 USC 3001 et seq.).

SOURCE: Adopted at 21 Ill. Reg. 8887, effective July 1, 1997; amended at 25 Ill. Reg. 5259, effective April 1, 2001; amended at 26 Ill. Reg. 3964, effective March 15, 2002; expedited correction at 26 Ill. Reg. 8482, effective March 15, 2002; amended at 30 Ill. Reg. 8913, effective April 28, 2006; amended at 35 Ill. Reg. 8180, effective May 12, 2011; emergency amendment at 38 Ill. Reg. 2357, effective December 31, 2013, for a maximum of 150 days; emergency expired May 29, 2014; amended at 39 Ill. Reg. 2156, effective January 23, 2015; amended at 42 Ill. Reg. 6659, effective April 2, 2018; amended at 42 Ill. Reg. 9226, effective July 1, 2018; amended at 42 Ill. Reg. _____, effective _____.

SUBPART B: LONG TERM CARE OMBUDSMAN PROGRAM

Section 270.100 Long-Term Care Ombudsman Program: Purpose and Program Model

This Subpart describes the organization, standards and responsibilities of the State Long-Term Care Ombudsman Program administered by the Office of the State Long-Term Care Ombudsman and through the Illinois Department on Aging.

- a) The Long-Term Care Ombudsman Program is authorized in accordance with the federal Older Americans Act (42 USC 3001 et seq.), implementing regulations under 45 CFR 1324, and the Illinois Act on Aging [20 ILCS 105/4.04].
- b) The Long-Term Care Ombudsman Program is modeled on the following principles:
 - 1) Resident directed advocacy intervention by Ombudsmen through provider agencies to ensure that older persons and persons with disabilities receive quality services. This is accomplished by providing advocacy services for:

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- A) Residents of long-term care facilities; and
- B) Participants receiving home care and community-based care.
- 2) Reasonable efforts to assist, empower, represent and advocate by Ombudsmen on behalf of the resident or participant. The services and activities of the Program are:
 - A) Resident and participant centered advocacy.
 - B) Identifying, investigating and resolving complaints.
 - C) Representing the interests of residents and participants before government agencies.
 - D) Regular presence in long-term care facilities.
 - E) Consultation and community education.
 - F) Issue advocacy.
 - G) Support for the development of resident and family councils.
- c) The Program protects and improves the quality of care and quality of life for residents of long-term care facilities and participants of a medical assistance waiver administered by the State of Illinois, or participants enrolled in a managed care organization that provides care coordination and other services to older persons and persons with disabilities.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 270.105 Definitions

"Act" means the Illinois Act on the Aging [20 ILCS 105].

"AAA" or "Area Agency on Aging" means any public or non-profit private agency in a planning and service area designated by the Department, which is eligible for funds available under the Older Americans Act (42 USC 3001 et seq.)

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

and other funds made available by the State of Illinois or the federal government.
(Section 3.07 of the Act)

"Assisted living establishment" or "assisted living" has the same meaning given the term in Section 10 of the Assisted Living and Shared Housing Act [210 ILCS 9/10].

"Authorized representative" means a person properly delegated or designated to exercise decision-making authority on behalf of another person, including, but not limited to, guardians of the estate (whether temporary or permanent), guardians of the person (whether temporary or permanent), conservator, agents appointed under a power of attorney (whether durable or not), health care surrogate decision-makers designated under the Health Care Surrogate Act [775 ILCS 401], and representative payees, including those appointed by the Social Security Administration or the Railroad Retirement Board pursuant to federal law (see 45 CFR 1324.1).

"Certification" means the process by which an individual who meets minimum qualifications is free of conflicts of interest and has successfully completed training and other requirements of this Part. Certification authorizes the individual to act as a representative of the Office.

"Complaint" means a concern or allegation regarding action, inaction or decisions that may adversely affect, or has adversely affected, the brought to, or initiated by, the ombudsman for investigation and action by, or on behalf of, one or more residents of a long term care facility relating to health, safety, welfare or rights of one or more residents or participants that is brought to the attention of, or initiated by, the Ombudsman for action a resident.

"Complainant" means anyone who contacts an Ombudsman for assistance who has personal knowledge of an action, inaction or decision that may affect the health, safety, welfare or rights of one or more residents or participants.

"Community-based setting" means any place of abode other than an individual's private home. (Section 4.04(b)(2.8) of the Act)

"Conflict of interest" means an individual or organizational competing interest, obligation, or duty that compromises, influences or interferes with (or gives the appearance of compromising, influencing or interfering with) the integrity,

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

activities or conduct of an Ombudsman, the Office, the Department, Area Agencies on Aging, or provider agencies in faithfully and effectively fulfilling his or her official duties.

"Department" means the Illinois Department on Aging. (Section 3.01 of the Act)

"Designation" means the authorization by the State Ombudsman of an entity, such as a provider agency, to host a Regional Program in a planning and service area or specified geographic area.

"Home Care Ombudsman Program" means either a subdivision of the Office or an agency designated by the State Long-Term Care Ombudsman as a subdivision of the Office and any Ombudsman housed within that agency that provides advocacy services to participants. Home Care Ombudsmen are representatives of the Office.

"Immediate family" means a member of the household or a relative with whom there is a close personal or significant financial relationship. (See 45 CFR 1324.1.)

"Legal representative" means a person properly delegated or designated to exercise decision-making authority on behalf of another person, including, but not limited to, guardians of the estate (whether temporary or permanent), guardians of the person (whether temporary or permanent), agents appointed under a power of attorney (whether durable or not), health care surrogate decision-makers designated under the Health Care Surrogate Act [775 ILCS 401], and representative payees, appointed by the Social Security Administration or the Railroad Retirement Board pursuant to federal law.

"Long-term care facility" means any facility as defined by Section 1-113 of the Nursing Home Care Act [210 ILCS 45]; ~~and~~ any skilled nursing facility or a nursing facility ~~that which~~ meets the requirements of ~~section~~Section 1819(a), (b), (c) and (d) or ~~section~~Section 1919(a), (b), (c) and (d) of the Social Security Act, as now or hereafter amended (42 USC 1395i-3(a), (b), (c) and (d) and ~~42-USC~~ 1396r(a), (b), (c) and (d)); any facility as defined by the ID/DD Community Care Act [210 ILCS 47/1-113]; any facility as defined by the MC/DD Act [210 ILCS 46/1-113]; any facility licensed under the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49/4-105 or 4-201]; any assisted living establishment and shared housing establishment as defined by the Assisted Living

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

and Shared Housing Act [210 ILCS 9/10]; and any supportive living facility established under the Illinois Public Aid Code [305 ILCS 5/5-5.01]. (Section 4.04(b)(2) of the Illinois Act on the Aging [20 ILCS 105/4.04(b)(2)])

"Managed care organization" or "MCO" means an organization licensed and approved by the Illinois Department of Healthcare and Family Services to provide care coordination and other services to older persons and persons with disabilities in the State of Illinois.

"Medical assistance waiver" means a waiver approved by the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services, and administered by the State of Illinois pursuant to section 1915(c) of the Social Security Act and other related authority.

"Monitoring tool" means a survey and questions developed by the Office to provide review and oversight for a Regional Program.

"Office" means the Office of the State Long-Term Care Ombudsman as established by the Department ~~that is the distinct, separately identifiable organizational unit headed by, which shall be comprised of the State Long-Term Care Ombudsman (see 45 CFR 1324.1), any other State Ombudsman staff and the Sub-State or Regional Long-Term Care Ombudsman Programs.~~

"Ombudsman" or "representative of the Office" ~~or "duly designated representative of the Office"~~ means any designated representative of the State Long-Term Care Ombudsman Program person employed by the Department to fulfill the requirements of the Office, or any representative of a Sub-State Long-Term Care Ombudsman Program; provided that the representative, whether he or she is paid for or volunteers his or her ombudsman services, shall be qualified and certified by the Office to perform the duties of an Ombudsman as specified by the Department in rules and in accordance with the provisions of the Older Americans Act of 1965, as now or hereafter amended ~~authorized by the Department to perform the duties of an ombudsman~~ and is registered with the ~~Office's Ombudsman Representative Registry.~~ (Section 4.04(b)(3.1) of the Illinois Act on the Aging [20 ILCS 105/4.04(b)(3)]). The term also means the certified individuals who fulfill the duties of the Office, whether the personnel supervision is provided by the State Ombudsman or by a provider agency hosting a Regional Program or Home Care Ombudsman Program. (See 45 CFR 1324.1.)

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

"Participant" means an older person aged 60 or over or an adult with a disability aged 18 through 59 who is eligible for services under a medical assistance waiver administered by the State of Illinois or a person receiving care coordination and other services by a managed care organization. (Section 4.04(b)(4) of the Act)

"Program" means the State Long-Term Care Ombudsman Program through which the functions and duties of the Office are carried out, consisting of the State Ombudsman, the Office headed by the State Ombudsman, and the representatives of the Office. (See 45 CFR 1324.1.)

"Program records" means the confidential case-related files created by an Ombudsman while carrying out his or her official duties.

"Provider agency" means the Regional Program provider entity designated by the State Long-Term Care Ombudsman to operate a Regional Program in a planning and service area or a specified geographic area.

"Regional Long-Term Care Ombudsman Program" or "Regional Program" means the entity designated by the State Long-Term Care Ombudsman as a division of the Office.

"Regional Ombudsman" means a certified Ombudsman who works full-time to perform Ombudsman functions exclusively and who shall have no duties in the provider agency outside the scope of the Regional Program.

"Representative" means an authorized representative or any person who is knowledgeable about a resident's or participant's circumstances and has been designated by that resident or participant, in writing, to represent him or her.

"Resident" means an older person aged 60 or over or an adult with a disability aged 18 through 59 who is a current resident of a long-term care facility, a former resident, or a deceased resident. (Section 4.04(b)(5) of the Act)

Complaints concerning a deceased resident are limited to systemic issues any person who is a current resident of a long term care facility, an individual seeking admission to a long term care facility, a former resident, or a deceased resident if the complaint or request for information involves procedures or practices related to admission, discharge and/or the individual's entitlement to care and services under federal and State laws and regulations.

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

"Shared housing establishment" has the same meaning given that term in Section 10 of the Assisted Living and Shared Housing Act [210 ILCS 9].

"State Long-Term Care Ombudsman" or "State Ombudsman" means any person employed by the Department to fulfill the requirements of the Office of State Long-Term Care Ombudsman as required under the Older Americans Act of 1965, as now or hereafter amended, and Departmental policy (Section 4.04(b)(3) of the Act). The term also means the individual who heads the Office and is responsible for personally, or through representatives of the Office, fulfilling the functions, responsibilities and duties set forth in federal regulations. (See 45 CFR 1324.1.)

"Willful interference" means actions or inactions taken by an individual in an attempt to intentionally prevent, interfere with, or attempt to impede the Ombudsman from performing any of the functions, responsibilities or duties of the Ombudsman. (See 45 CFR 1324.1.)

~~"Sub State Long Term Care Ombudsman Program", "Sub State Program", "Regional Long Term Care Ombudsman Program" or "Regional Program" means an agency designated by the Department as a sub-division of the Office.~~

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 270.110 Responsibilities of the Department and the Office of the State Long Term Care Ombudsman (Repealed)

- a) ~~The Department shall establish an Office of the State Long Term Care Ombudsman within the Department and provide for sufficient staff to carry out the State and federal statutory responsibilities of the program.~~
- b) ~~The Office shall establish and maintain an Ombudsman Representative Registry as an official listing of those ombudsmen who are designated as representatives of the Office.~~
- e) ~~The Department reserves the right to remove from the Ombudsman Representative Registry the name of any ombudsman representative who fails to meet, maintain, or comply with the standards and requirements of the program. Any ombudsman representative so removed shall not serve, nor represent themselves, as a representative of the ombudsman program. The Department~~

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

~~shall provide for notice of such removal to such individual, together with an opportunity to appeal the decision of the Department.~~

- d) ~~The Office shall identify, investigate and resolve complaints made by or on behalf of residents of long term care facilities relating to actions, inactions or decisions that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees) of providers, or their representatives, of long term care facilities, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare or rights of such residents. (Section 4.04(e) of the Illinois Act on the Aging)~~
- e) ~~The Department shall inform the residents about means of obtaining services provided by providers or agencies described in subsection (d) above.~~
- f) ~~The Department shall provide administrative and technical assistance to entities designated as Sub-State Long Term Care Ombudsman Programs.~~
- g) ~~The Department shall provide for training representatives of the Office.~~
- h) ~~The Department shall promote the development of citizen organizations to participate in the program.~~
- i) ~~The Office shall ensure that residents have access to the services provided through the Office and that the residents and complainants receive responses to complaints from representatives of the Office.~~
- j) ~~The Office shall represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents.~~
- k) ~~The Office shall analyze, comment on, and monitor the development and implementation of federal, State, and local laws, regulations, and other governmental policies and actions that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long term care facilities and services in the State.~~
- l) ~~The Office shall recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate.~~

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- m) ~~The Office shall facilitate public comment on the laws, regulations, policies, and actions.~~
- n) ~~The Office shall provide technical support for the development of resident and family councils to protect the well-being and rights of residents.~~
- o) ~~The Office shall carry out other activities consistent with the requirements of this Subpart.~~

(Source: Repealed at 42 Ill. Reg. _____, effective _____)

Section 270.115 Display of the Ombudsman Poster

Each long-term care facility shall display posters supplied by the Office in the following manner:

- a) Each poster shall be prominently displayed in the facility in a place accessible to residents and the public.
- b) The poster shall not be obscured in any manner by any other material. Each poster shall be placed with the bottom of the poster approximately 42 inches from the level of the floor.
- c) If a majority of residents speak a language other than English, then a majority of the posters shall be in that language if they are available from the Department.
- d) A poster shall be placed:
 - 1) in each wing on each floor of the facility,
 - 2) in each of the facility's activity rooms, and
 - 3) at the main entrance/exit of the facility.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 270.120 Access to Resident Records (Repealed)

- a) ~~When a resident is incapable of giving to the ombudsman informed consent for~~

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

~~access to the resident's records (such resident is hereinafter referred to as an "incapable resident"), the State Long Term Care Ombudsman, the Sub State Ombudsman or other duly designated representative of the State Long Term Care Ombudsman Office shall have access to such incapable resident's clinical and other records under the following circumstances:~~

- ~~1) the State Long Term Care Ombudsman, Sub State Ombudsman or other duly designated representative has had a face to face visit with such resident and has personally determined that the resident was incapable of making and communicating an informed consent or denial for access to the resident's records by the ombudsman; and~~
- ~~2) the State Long Term Care Ombudsman, Sub State Ombudsman or other duly designated representative has determined the following:~~
 - ~~A) Either:~~
 - ~~i) the resident has no agent, court appointed guardian or legal representative who is empowered to make such a decision regarding the resident's records; or~~
 - ~~ii) the agent, court appointed guardian or legal representative is implicated in the complaint; or is not acting in the best interest of the resident; or could not be located within 24 hours despite a reasonable effort by the ombudsman to do so; and~~
 - ~~B) A review of such records is necessary to investigate or resolve a complaint or protect the rights of the incapable resident.~~
- ~~b) The State Long Term Care Ombudsman, Sub State Ombudsman or other duly designated representative shall present a written request to the facility for such resident's records. Upon receipt of the request, the facility must allow immediate access to the resident's records by the State Long Term Care Ombudsman, the Sub State Ombudsman or other duly designated representative of the State Long Term Care Ombudsman Office.~~
- ~~e) Should the Sub State Ombudsman or duly designated representative be denied access to a resident's records, the ombudsman will report this fact to the Office of~~

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

~~the State Long Term Care Ombudsman.~~

(Source: Repealed at 42 Ill. Reg. _____, effective _____)

Section 270.130 Conflict of Interest

The Department ~~and the State Ombudsman will~~shall ensure that no individual, or member of the immediate family, person directing, employed by, participating in, or with responsibilities for the selection or designation of the ~~Regional Sub-State~~ Programs shall be subject to a conflict of interest, as defined by ~~section~~Section 712(f) of the Older Americans Act (42 ~~USC~~U.S.C. 3058g(f)). Accordingly, organizational and individual conflicts of interest that may impact the effectiveness and credibility of the work of the Office shall be identified and the Department and the State Ombudsman will direct action to remove or remedy the conflict in accordance with federal regulations (45 CFR 1324.21 (2016)) and Ombudsman policies and procedures.

- a) Organizations involved in the establishment of the Program and individuals who carry out the duties of the Program, Office, Department, Area Agencies on Aging and provider agencies shall be free from conflicts of interest.
- b) When a potential conflict of interest is identified, the Office shall review the circumstances of the conflict to determine whether:
 - 1) An actual conflict exists;
 - 2) Whether the conflict was knowing or accidental; and
 - 3) Whether the conflict could be remedied by appropriate action by the individual or agency involved.
- c) If a potential conflict of interest is determined to be an actual conflict, the Office, in consultation with the Department, shall determine what actions shall be accepted by the individual or organization. Once validated, a conflict can be remedied only when the conflict no longer exists, or it is determined that continued existence of the conflict does not compromise the ability of the Ombudsman to carry out the duties of the Program as an independent advocate for residents and participants.
- d) The Office shall report all conflicts and remedial measures in its annual report through the federal National Ombudsman Reporting System.

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 270.132 Organizational Standards and Responsibilities: Department on Aging

- a) *The Department shall establish a Long-Term Care Ombudsman Program, through the Office of State Long-Term Care Ombudsman, in accordance with the provisions of the Older Americans Act of 1965, as now or hereafter amended.*
- b) Federal regulations are incorporated by reference for the establishment of the Office of the State Long-Term Care Ombudsman at 45 CFR 1324.11 (2016) and Department responsibilities related to the Ombudsman Program at 45 CFR 1324.15 (2016). These incorporations do not include any later amendments or editions. The Department will collaborate with the Ombudsman in accordance with this Part and the federal regulations for the State's implementation of the Program. (See 81 Fed. Reg. 35645 (June 3, 2016).)
- c) *The Department, in consultation with the Office, shall cooperate with the Department of Human Services and other State agencies in providing information and training to designated Regional Long-Term Care Ombudsman Programs about the appropriate assessment and treatment (including information about appropriate supportive services, treatment options, and assessment of rehabilitation potential) of the residents and the participants they serve. (Section 4.04(c) of the Act)*
- d) Based on the Older Americans Act, the Department makes grants to AAAs in a planning and service area to build comprehensive systems for older people throughout the State and develop policies governing all aspects of applicable programs, including the Ombudsman Program. (See 45 CFR 1321.)

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.134 Organizational Standards and Responsibilities: Office of the State Long-Term Care Ombudsman

- a) The Office will be established in accordance with federal requirements under 45 CFR 1324.11 (2016) and this Subpart. The Office shall collaborate with the Department in accordance this Part and with the federal regulations for the State's implementation of the Program.

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- b) The Office shall be composed of at least one full-time Ombudsman and shall include a system of designated Regional Long-Term Care Ombudsman Programs.
- c) Each Regional Program shall be designated by the State Long-Term Care Ombudsman as a subdivision of the Office and any representative of a Regional Program shall be treated as a representative of the Office. (Section 4.04(c) of the Act)
- d) The State Long-Term Care Ombudsman certifies individuals as Ombudsmen. In order to be recommended for certification, an Ombudsman must complete the training set forth in the policies and procedures and satisfy the requirements of this Section. The State Long-Term Care Ombudsman may also remove certification of an Ombudsman.
- e) The State Long-Term Care Ombudsman and all other Ombudsmen must submit to background checks under the Health Care Worker Background Check Act [225 ILCS 46] and receive training, as prescribed by the Department, before visiting facilities, private homes, or community-based settings. Training must include information specific to:
- 1) Assisted living establishments, supportive living facilities, shared housing establishments, and private homes; and
 - 2) The rights of residents and participants. (Section 4.04(c) of the Act)
- f) The Office shall, with the support of the Department:
- 1) Develop and provide final approval of an annual report as set forth in section 712(h)(1) of the Older Americans Act and 45 CFR 1324.
 - 2) Analyze, comment on, and monitor the development and implementation of laws, policies and actions that pertain to residents and participants, and to the health, safety, welfare and rights, of residents and participants.
 - 3) Provide such information as the Office determines necessary, regarding the problems and concerns of residents and participants, to public and private agencies, legislators and the media. (See 45 CFR 1324.15(k).)

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- 4) Consult the Department in establishing policies and procedures for the Program. (See 45 CFR 1324.11(e).)
- g) The Office will not investigate complaints related to abuse, neglect and financial exploitation, or self-neglect reported by, or on behalf of, an older person aged 60 or over or an adult with a disability aged 18 through 59 living in the community. These complaints will be referred to the Department's Adult Protective Services program for handling pursuant to Section 4 of the Adult Protective Services Act [320 ILCS 20].

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.136 Organizational Standards and Responsibilities: Area Agencies on Aging

- a) AAAs receive grants of Older Americans Act funds designated for the Ombudsman Program that, along with any other available funds, support Ombudsman services in the applicable planning and service areas. Pursuant to receipt of these funds, the responsibilities of the AAA include (see 45 CFR 1321.63):
- 1) *The development of an area plan that provides for the development of a comprehensive and coordinated service delivery system for social services needed by older persons.*
- 2) *Entering into cooperative arrangements with other service planners and providers, including provider agencies, to:*
- A) *Facilitate access to and utilization of all existing services;*
- B) *Develop social services effectively and efficiently to meet the needs of older persons; and*
- C) *Coordinate existing services to meet the special needs and circumstances of minority senior citizens. (Section 3.07 of the Act)*
- b) The AAA shall follow a competitive process, through guidance in the policies and procedures of the Program, for the designation of a provider agency. Designation

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

shall be renewed at least every six years, except for services provided on an emergency basis. The provider agency shall enter into an agreement for services.

- c) In administering Regional Program services, the AAA shall:
- 1) Support a full-time Regional Ombudsman for each Regional Program;
 - 2) Have an active and ongoing responsibility in monitoring the agreement. However, AAAs do not have access to Program records that contain identifying information about residents. Ongoing monitoring by the AAA shall be in accordance with the Ombudsman policies and procedures;
 - 3) Provide technical assistance to the provider agencies related to budgetary concerns and service delivery systems;
 - 4) Support the Regional Program in accordance with Ombudsman policies and procedures.
- d) The AAA shall retain and purge all books, records and other documents relevant to the operation of the Program, as directed by the Department in accordance with the State Records Act [5 ILCS 160], unless other State laws or federal laws or regulations apply (e.g., when records contain information subject to the federal Health Insurance Portability and Accountability Act (HIPAA)). The AAA is to ensure that records are purged pursuant to Department standards.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.138 Organizational Standards and Responsibilities: Ombudsman Provider Agencies

Federal regulations related to a provider agency hosting a Regional Program and Ombudsman are incorporated by reference at 45 CFR 1324.17 (2016). Accordingly, the provider agency shall perform its responsibilities in administering the Regional Program per the Ombudsman policies and procedures and the agreement with the Department or AAA. These responsibilities include, but are not limited to:

- a) Personnel management, but not the programmatic oversight, of Ombudsmen in a Regional Program.

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- 1) Provider agencies shall not have personnel policies or practices that impair Ombudsmen from performing the duties, or from adhering to the access, confidentiality and disclosure requirements, of section 712 of the Older Americans Act, the Illinois Act on the Aging, and this Part.
 - 2) A provider agency may require that Ombudsmen adhere to the personnel policies and procedures that are otherwise lawful.
- b) Being the sole provider of designated Ombudsman services in the applicable planning and service area or geographic service area.
 - c) If necessary, submitting, for written approval or denial by the Office, any requirements it wants to apply that differ from the Ombudsman policies and procedures.
 - d) Ensuring the Regional Ombudsman develops and submits an Annual Services Plan in accordance with the State Ombudsman instructions.
 - e) Providing a full-time Regional Ombudsman who shall:
 - 1) Meet the applicable minimum qualifications of the Ombudsman policies and procedures;
 - 2) Have no duties in the provider agency outside the scope of the Regional Program; and
 - 3) Actively participate in the development of a budget, including any amendments or modifications.
 - f) Adequately staffing the Regional Program to meet or exceed the ratio of one full-time equivalent paid Ombudsman to 2,000 licensed beds, contingent on available funding.
 - g) Meeting or exceeding the Program performance benchmarks established by the Office.
 - h) Protecting unauthorized disclosure of Program records without the consent and approval of the State Ombudsman.

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- i) Providing staff support, such as work space, custodial, fiscal management, clerical, technology, and telephone coverage and supervisory support for Program operations.
- j) Providing trained back-up support as needed for the operation of the Regional Program, including:
 - 1) Arranging, in consultation with the Office and the AAA, if applicable, for temporary provision of Regional Program services when Ombudsman staff are unavailable or the Regional Ombudsman position is vacant;
 - 2) Arranging and notifying the Office and the AAA when the Regional Ombudsman will be unavailable for five or more consecutive business days.
- k) Retaining and purging all books, records and other documents relevant to the operation of the Program as directed by the State Ombudsman or the Department in accordance with the State Records Act, unless other State laws or federal laws or regulations apply.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.140 Access to Residents and Participants

- a) Access, by representatives of the Office, means the right to immediately:
 - 1) Enter any long-term care facility;
 - 2) Communicate privately and without restriction with any resident or participant, regardless of age, who consents to the communication;
 - 3) Seek consent to communicate privately and without restriction with any participant or resident, regardless of age;
 - 4) Observe all areas of the long-term care facility or supportive living facility, assisted living or shared housing establishment, except the living area of any resident who protests the observation; and

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

5) *Subject to permission of the participant or resident requesting services or his or her representative, enter a home or community-based setting.*
(Section 4.04(b)(1) of the Act)

b) *Failure to allow access to residents or participants, in accordance with this Subpart, may result in a finding of willful interference.*

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.142 Access to Resident and Participant Information and Records

a) *Ombudsmen and representatives of the Office shall have access to:*

1) *The name and contact information of the resident's or participant's representative.*

2) *Administrative records, policies and documents of long-term care facilities, medical assistance waiver services, and managed care organizations to which residents, participants or the general public has access.*

3) *Copies of all licensing and certification records maintained by the State or long-term care facility with respect to long-term care facilities.*

4) *A resident's or participant's medical, social or other records relating to the resident or participant if:*

A) *The resident, participant or representative communicates informed consent to the access and the consent is given in writing or through the use of auxiliary aids and services;*

B) *The resident, participant or representative communicates informed consent orally, visually or through the use of auxiliary aids and services, and that consent is documented contemporaneously by a representative of the Office in accordance with its policies and procedures.*

5) *The Health Insurance Portability and Accountability Act of 1996 (HIPPA) Privacy Rule (45 CFR 160 and 164), does not preclude release by covered*

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

entities of resident or participant private health information or other resident or participant identifying information to the Ombudsman Program, including but not limited to residents' or participants' medical, social or other records, a list of resident names and room numbers, or information collected in the course of a State or federal survey or inspection process. (See 45 CFR 1324.11(e)(2)(vii).)

- b) In limited circumstances, the State Ombudsman or his/her designee may grant access to resident or participant records to investigate a complaint when:
- 1) the resident or participant representative refuses to consent; or
 - 2) a representative of the Office has reasonable cause to believe that the resident's or participant's representative is not acting in the best interests of the resident or participant.
- c) Failure to provide access to records or information, in accordance with this Subpart, may result in a finding of willful interference.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.144 Confidentiality and Disclosure

- a) Ombudsman Program records are the property of the State Ombudsman. The Office shall have access to all Program records during the applicable retention period.
- b) Program records containing resident and participant information are confidential.
- c) The Department, in conjunction with the State Ombudsman, shall establish procedures for the disclosure by the State Ombudsman of files maintained by the Program (Section 4.04(g) of the Act).
- d) The files, records and other information maintained by the Ombudsman Program are considered information specifically prohibited from disclosure by 45 CFR 1324.11 and Section 7(1) of Illinois FOIA [5 ILCS 140]. Disclosure is only at the discretion of the State Ombudsman in accordance with this Subpart.

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- e) The Department, AAAs, and provider agencies do not have automatic access to resident and participant records without the consent of the State Ombudsman.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.146 Ombudsman Services in Long-Term Care Facilities

45 CFR 1324.19 (2016), the federal regulations relating to the duties of the representatives of the Office, are incorporated by reference. Ombudsman policies and procedures also apply. Long-term care service components of the Program include, but are not limited to:

- a) Identifying, investigating and resolving complaints made by or on behalf of residents relating to actions, inactions or decisions that may adversely affect the health, safety, welfare or rights of the residents;
- b) Maintaining a regular presence in long-term care facilities;
- c) Providing services to protect the health, safety, welfare or rights of residents;
- d) Ensuring that residents have regular and timely access to the services provided through the Program and that residents and complainants receive timely responses to requests for information or complaints; and
- e) Consulting and providing community education.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.148 Home Care Ombudsman Services

45 CFR 1324.19 (2016), the federal regulations relating to the duties of the representatives of the Office, are incorporated by reference. Ombudsman policies and procedures also apply. Home care service components of the Program include, but are not limited to:

- a) Identifying, investigating and resolving or referring complaints made by or on behalf of participants relating to actions, inactions or decisions of service providers, or their representatives, public agencies, or social service agencies that may adversely affect the health, safety, welfare or rights of the participants;
- b) Providing services to protect the health, safety, welfare or rights of participants;

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- c) Ensuring participants have timely access to the services provided through the Program and that participants and complainants receive timely responses to requests for information or complaints; and
- d) Consulting and providing community education.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.150 Joint Responsibilities of the Ombudsman and the Home Care Ombudsman Programs

Joint responsibilities of the Ombudsman and the Home Care Ombudsman Programs include, but are not limited to:

- a) Representing the interests of residents and participants before government agencies and assuring that individual residents and participants have access to, and pursue (as the Ombudsman determines necessary and consistent with resident and participant interest), administrative, legal and other remedies to protect the health, safety, welfare and rights of the residents and participants;
- b) Reviewing and, if necessary, commenting on any existing and proposed laws, regulations and other government policies and actions that pertain to the rights and well-being of residents and participants; and
- c) Facilitating the ability of the public to comment on the laws, regulations, policies and actions.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.152 Complaint Investigations

- a) Policies and procedures of the State Ombudsman provide standards to assure a prompt response to complaints and the prioritization of complaints.
- b) Complaints may be initiated by anyone who has personal knowledge of an action, inaction or decisions that may adversely affect the health, safety, welfare or rights of one or more residents or participants.

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- c) The Ombudsman may identify, investigate and attempt to resolve a complaint impacting an individual resident or participant or multiple residents or participants.
- d) Regardless of the source of the complaint (i.e., the complainant), including when the source is the Ombudsman, the Ombudsman shall support and maximize resident or participant participation in the process of resolving the complaint in accordance with 45 CFR 1324.19(b) (2016). These processes include, but are not limited to, the following:
- 1) The Ombudsman shall offer privacy to the resident or participant for the purpose of confidentiality.
 - 2) The Ombudsman shall personally discuss the complaint with the resident or participant and, if the resident or participant is unable to communicate informed consent, his or her representative. The Ombudsman shall:
 - A) Determine the perspective of the resident or participant;
 - B) Obtain informed consent to investigate the complaint;
 - C) Determine the wishes of the resident or participant with respect to the resolution of the complaint, including whether the allegations are to be reported and, if so, whether the Ombudsman may disclose resident or participant identifying information or other relevant information to the facility or appropriate agencies or both;
 - D) Advise the resident or participant of his or her rights;
 - E) Work with the resident or participant to develop a plan of action for resolution of the complaint;
 - F) Investigate the complaint to determine whether the complaint can be verified; and
 - G) Determine whether the complaint is resolved to the satisfaction of the resident or participant.

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- e) To determine the degree of reliance of the resident or participant on the representative, the Ombudsman shall consider the extent of the authority that has been granted to the representative under court order (in the case of a guardian or conservator), by power of attorney or other document by which the resident or participant has granted authority to the representative to communicate or make determinations on behalf of the resident or participant related to complaint processing.
- f) The Ombudsman may provide information regarding the complaint to another agency so that agency can substantiate the facts for regulatory, protective services, law enforcement, or other purposes. The Ombudsman shall adhere to the disclosure requirements of section 712(d) of the Older Americans Act, 45 CFR 1324.11(e)(2) (2016), and this Section.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.154 Willful Interference

- a) No person shall:
- 1) intentionally prevent, interfere with, or attempt to impede in any way any representative of the Office in the performance of his or her official duties under the Illinois Act on the Aging and the Older Americans Act of 1965; or
 - 2) Intentionally retaliate, discriminate against, or effect reprisals against any resident or participant or employee for contacting or providing information to any representative of the Office. (Section 4.04(f) of the Act)
- b) Interference includes, but is not limited to:
- 1) The infliction of physical harm;
 - 2) Threats to inflict physical harm;
 - 3) Intimidation;
 - 4) Deception;

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- 5) Tampering with physical evidence;
 - 6) Destroying, hiding or altering records;
 - 7) Making false statements or encouraging others to do so;
 - 8) Bribery or attempted bribery;
 - 9) Retaliation; and
 - 10) Restricting, without legal authority, the personal movements or travel of any individual, when those actions are done for the sole purpose of preventing the Ombudsman from discharging his or her official duties.
- c) The State Ombudsman, in consultation with the Department, upon notice that all attempts to resolve the interference have failed, will notify the appropriate State's Attorney or the Office of the Attorney General.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.156 Retaliation

- a) It is unlawful to intentionally discriminate, retaliate or effect reprisals in any manner against any resident, participant, representative or employee of a long-term care facility, or a home care provider, for filing a complaint with, providing information to, or otherwise cooperating in good faith with the Ombudsman.
- b) The Office shall investigate any report of intentional acts of discrimination, retaliation or reprisal.
- c) If the Office, based on a review by the Office, determines that enforcement action is warranted, the Office shall pursue the following course of action:
 - 1) The State Ombudsman shall notify the Office of the Attorney General or the appropriate State's Attorney.
 - 2) When the perpetrator is a long-term care facility employee or agent, the Office shall file a complaint with the Illinois Department of Public Health

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

or the Illinois Department of Healthcare and Family Services, as appropriate.

- 3) When the perpetrator is a provider employee or agent, the Office shall file a complaint with the appropriate entity with jurisdiction.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.158 Grievances Against an Ombudsman Related to the Performance of Duties

- a) Policies and procedures establish a grievance process for the receipt and review of grievances regarding the determinations, actions or inactions of an Ombudsman and representatives of the Office in accordance with 45 CFR 1324.11(e)(7) (2016).
- b) Grievances are to be submitted in writing to the following:
 - 1) Grievances about an Ombudsman employed by a Provider Agency shall be directed to the Regional Ombudsman;
 - 2) Complaints about a Regional Ombudsman or State Ombudsman staff shall be directed to the State Ombudsman;
 - 3) Complaints about the State Ombudsman shall be directed to the Director of the Department.
- c) The grievance shall be investigated and a written response issued to the complainant.
- d) The grievance process shall include an opportunity for reconsideration of a final determination.
- e) The decision to refuse, suspend or remove certification of an Ombudsman may be reconsidered by the State Ombudsman.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.160 Multi-disciplinary Teams for Ombudsman Program

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- a) The Regional Ombudsman may develop or participate on a multi-disciplinary team (M-Team). The M-Team may be new or an existing one. The Ombudsman, or his or her designee, of the area in which the multi-disciplinary team is created shall be the facilitator of the multi-disciplinary team. (Section 4.04(k) of the Act)
- b) The M-Team shall act in an advisory role for the purpose of providing professional knowledge and expertise in handling complex abuse, neglect, and advocacy issues involving participants or residents. (Section 4.04(k) of the Act)
- c) M-Team members shall sign a confidentiality form provided by the Office that shall be included in the Program records.
- d) Ombudsmen shall not disclose resident or participant identifying information during an M-Team discussion. Ombudsman team members shall provide case summaries for discussion purposes rather than actual case files.
- e) The M-Team may consist of one or more volunteer representatives from any combination of at least 7 members from the follow professions:
- 1) Banking or finance;
 - 2) Disability care;
 - 3) Health care;
 - 4) Pharmacology;
 - 5) Law;
 - 6) Law enforcement;
 - 7) Emergency responder;
 - 8) Mental health care;
 - 9) Clergy;
 - 10) Coroner or medical examiner;

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- 11) Substance abuse;
- 12) Domestic violence;
- 13) Sexual assault; or
- 14) Other related fields. (Section 4.04(k) of the Act)

- f) The M-Team has a right to request and receive records on particular cases from law enforcement agencies and coroners or medical examiners, in accordance with this Part.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 270.162 Immunity

An ombudsman or any representative of the Office participating in the good faith performance of his or her official duties shall have immunity from any liability (civil, criminal or otherwise) in any proceedings (civil, criminal or otherwise) brought as a consequence of the performance of his or her official duties. (Section 4.04(e) of the Act)

(Source: Added at 42 Ill. Reg. _____, effective _____)

SUBPART E: ADULT PROTECTIVE SERVICE REGISTRY

Section 270.450 Burden of Proof

Unless otherwise provided by law, the burden of proof will be by the preponderance of the evidence and will be on the moving party or the ~~party~~partying bringing the action.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Collection of Out-of-Service Mercury Thermostats
- 2) Code Citation: 35 Ill. Adm. Code 190
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
190.120	Amendment
190.130	Amendment
190.135	New Section
190.140	Amendment
- 4) Statutory Authority: Section 25(c) of the Mercury Thermostat Collection Act [415 ILCS 98/25(c)]
- 5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency ("Illinois EPA") proposes to amend the annual collection goals for calendar years 2018 through 2020 for mercury thermostat collection programs established pursuant to the Mercury Thermostat Collection Act ("MTCA"). The amendments, which expand and increase collection program 'best practices,' are designed to "maximize the annual collection of out-of-service mercury thermostats in the State."
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an 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: It does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on the proposed rules may submit them in writing no later than 45 days after publication of this Notice to:

Gabriel H. Neibergall

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544
gabriel.neibergall@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This proposed amendment will not have a direct effect on small businesses, small municipalities, or not-for-profit corporations, unless any such entity (1) manufactures mercury thermostats that are removed, replaced, or otherwise taken out of service in Illinois or (2) is a thermostat wholesaler, thermostat retailer, contractor, or qualified local government authority, as defined in the MTCA, that is participating in a mercury thermostat collection program administered pursuant to the MTCA. Because the MTCA and the existing rules established specific collection goals for calendar years 2011 through 2020, this amendment will affect applicable small businesses, small municipalities, or not-for-profit corporations only to the extent that the annual collection goals established by the amendment deviate from the current collection goals.
- 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 2018

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCYPART 190
COLLECTION OF OUT-OF-SERVICE MERCURY THERMOSTATS

Section	
190.100	Purpose
190.110	Applicability
190.120	Definitions
190.130	Annual Collection Goals
190.135	Narrative Collection Program Goals
190.140	Severability

AUTHORITY: Implementing and authorized by Section 25(c) of the Mercury Thermostat Collection Act [415 ILCS 98/25(c)].

SOURCE: Old Part repealed at 22 Ill. Reg. 14327, effective July 15, 1998; new Part adopted at 38 Ill. Reg. 22635, effective November 20, 2014; amended at 42 Ill. Reg. _____, effective _____.

Section 190.120 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part ~~will~~shall be the same as those applied to the same words or terms in the Mercury Thermostat Collection Act.

"Act" means the Mercury Thermostat Collection Act- [415 ILCS 98].

"Agency" means *the Illinois Environmental Protection Agency*. [415 ILCS 98/10]

"Collection location" means a permanent or temporary physical location at which mercury thermostats are collected for transportation, recycling, and disposal as part of a collection program.

"Collection Program" means *a system for collection, transportation, recycling, and disposal of out-of-service mercury thermostats that is financed and managed*

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

or provided by a thermostat manufacturer individually or collectively with other thermostat manufacturers in accordance with the Act. [415 ILCS 98/10]

"Contractor" means a person engaged in the business of installation, service, or removal of heating, ventilation and air-conditioning components. [415 ILCS 98/10]

"Mercury Thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating, or air conditioning equipment, including those products or devices used to sense and control room temperature in residential, commercial, industrial, and other buildings. "Mercury thermostat" does not mean thermostats used to sense and control temperature as part of a manufacturing or industrial process. [415 ILCS 5/22.23b(f)]

"Out-of-service Mercury Thermostat" means a mercury thermostat that is removed, replaced, or otherwise taken out of service. [415 ILCS 98/10]

"Person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity or its legal representatives, agents, or assigns. [415 ILCS 98/10]

"Thermostat Manufacturer" means a person who owns or owned a name brand of one or more mercury thermostats sold in Illinois. [415 ILCS 98/10]

"Thermostat retailer" means a person who sells in Illinois thermostats of any kind primarily to homeowners or other nonprofessionals through any sale or distribution mechanism. A thermostat retailer that meets the definition of thermostat wholesaler will be considered a thermostat wholesaler. [415 ILCS 98/10]

"Thermostat wholesaler" means a person who is engaged in the distribution and wholesale selling of heating, ventilation, and air-conditioning components, including but not limited to, thermostats, to contractors, and whose total wholesale sales account for 80% or more of its total sales. A thermostat manufacturer, as defined in this Section, is not a thermostat wholesaler. [415 ILCS 98/10]

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 190.130 Annual Collection Goals

a) Collection programs required under the Act ~~must~~ shall be designed to collectively achieve the following annual statewide collection goals:

- 1) Compliance with the Collection Program Goals set forth in Section 190.135 of this Part; and
- 2) The collection of no fewer than the number of out-of-service mercury thermostats set forth below.

Calendar Year	Mercury Thermostats Taken Out of Service
2015	22,500
2016	25,000
2017	30,000
2018	32,500 <u>7,000</u>
2019	37,500 <u>6,000</u>
2020	40,000 <u>5,000</u>

b) Failure to Achieve Annual Collection Goals in Calendar Year 2015 or 2017

- 1) *If the collection programs do not collectively achieve the collection goals provided for in this Part for calendar year 2015 or 2017, thermostat manufacturers shall, individually or collectively, submit to the Agency for review and approval proposed revisions to the collection programs that are designed to achieve the goals in subsequent calendar years. The proposed revisions shall be submitted to the Agency with the annual report required in Section 20 of the Act. [415 ILCS 98/15(c)]*
- 2) *If the Agency determines the revised collection programs will not collectively achieve the collection goals set forth in this Part, the Agency may require modifications to one or more collection programs that the Agency determines are necessary to achieve the collection goals. Modifications required by the Agency may include improvements to outreach and education conducted under the collection program,*

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

expansion of the number and location of collection sites established under the program, modification of the roles of participants, and a \$5 financial incentive in the form of either cash or a coupon offered by the manufacturer to contractors and consumers for each out-of-service mercury thermostat returned to a collection site. [415 ILCS 98/15(d)(2)]

- c) *Any person adversely affected by a goal established by subsection (a) may obtain a determination of the validity or application of the goal by filing a petition for review on or before January 9, 2015. Any appeal must be filed with the Appellate Court for the District in which the cause of action arose. During the pendency of the review, the goal under review shall remain in effect. [415 ILCS 98/25(d)]*
- d) *No later than April 1, 2016 and no later than April 1 of each year thereafter, each thermostat manufacturer shall, individually or collectively with other thermostat manufacturers, submit an annual report on its collection program to the Agency covering the one-year period ending December 31 of the previous year, to be posted on the manufacturer's website in accordance with Section 20(b) of the Act. [415 ILCS 98/~~2025~~(b)]*

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 190.135 Narrative Collection Program Goals

- a) Collection Program Goals
- 1) Each collection program must maintain at least 600 collection locations statewide, or 20% more collection locations statewide than were maintained during the previous calendar year, whichever is less.
- 2) Each collection program must engage in outreach to its collection locations, as set forth below:
- A) Biannual in-person on-site outreach, by a collection program representative, to any collection location in its collection program that returned twenty or fewer mercury thermostats during either of the previous two calendar years.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- B) Quarterly telephonic outreach to any collection location in its collection program that returned forty or fewer mercury thermostats during the previous calendar year.
 - C) Quarterly electronic outreach to all collection locations in its collection program.
- 3) Each collection program must include outreach campaigns targeting additional potential program participants.
- A) Each of the following categories of persons must be the target of at least two outreach campaigns:
 - i) Thermostat wholesalers;
 - ii) Contractors;
 - iii) Thermostat retailers; and
 - iv) Homeowners.
 - B) Each collection program's outreach campaigns must include, at a minimum, information about its collection program, a description of the environmental benefits of participating in the collection program, and an offer to participate in its collection program.
 - C) Nothing in subsection (b)(3) prohibits any collection program from individually or collectively conducting additional outreach campaigns that target other audiences.
- b) Each collection program must demonstrate compliance with this Section in its annual reporting which includes the number of thermostats collected pursuant to Section 190.130(d).
- c) Compliance with the Collection Program Goals set forth in subsection (a) of this Section will constitute satisfaction of the collection goals established by the Agency in accordance with Section 25(c) of the Act and this Part.

(Source: Added at 42 Ill. Reg. _____, effective _____)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

Section 190.140 Severability

If any Section, subsection, sentence, or clause of this Part is judged invalid, that adjudication ~~will~~shall not affect the validity of this Part as a whole or any Section, subsection, sentence, or clause of this Part not judged invalid.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1030.60	Amendment
1030.88	Amendment
- 4) Statutory Authority: 625 ILCS 5/2-104 & 625 ILCS 5/6-104(a); 625 ILCS 5/6-508(a)(2)
- 5) A Complete Description of the Subjects and Issues Involved: Makes miscellaneous changes to the third party testing certification program, including deeming failure to keep records or complete records is prima facie evidence that no records were kept; allows for refresher training if a safety officer does not conduct the minimum number of skills tests; specifies requirements for reporting of appointments for skills tests.

Allows an active duty member of the United States Armed Forces who successfully complete a Motorcycle Safety Foundation (MSF) course while in the military to present the MSF card at a Secretary of State facility to obtain a class L or M driver license without completion of the Secretary of State administered written and road tests.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an 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: The rulemaking will not create or enlarge a State Mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the *Illinois Register*. Interested

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723

217/557-4462

- 13) Initial Regulatory Flexibility Analysis:
- i) Types of small businesses, small municipalities and not-for-profit corporations affected: Municipalities who participate in the third-party testing program to administer skills tests to their employees who wish to obtain a CDL will be affected.
 - ii) Reporting, bookkeeping or other procedures required for compliance: None
 - iii) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1030
ISSUANCE OF LICENSES

Section	
1030.1	Definitions
1030.5	Procedure for Obtaining a Driver's License
1030.6	Procedure for Obtaining a Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a)
1030.7	Procedure for Obtaining a Non-Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a-5)
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License (Renumbered)
1030.12	Identification Cards for the Homeless
1030.13	Denial of License or Permit
1030.14	Emergency Contact Database
1030.15	Cite for Re-testing
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References (Repealed)
1030.22	Medical Examiner's Certificate – CLP or CDL Holders
1030.25	Safe Driver License Renewals
1030.26	Identification Cards for IDOC/IDJJ Applicants
1030.27	Identification Cards for Youth in Care
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers (Repealed)
1030.65	Instruction Permits
1030.66	Adult Driver Education
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 1030.80 Driver's License Testing/Written Test
- 1030.81 Endorsements
- 1030.82 Charter Bus Driver Endorsement Requirements
- 1030.83 Hazardous Material Endorsement
- 1030.84 Vehicle Inspection
- 1030.85 Driver's License Testing/Road Test
- 1030.86 Multiple Attempts – Written and/or Road Tests
- 1030.88 Exemption of Facility Administered Road Test
- 1030.89 Temporary Driver's Licenses and Temporary Instruction Permits
- 1030.90 Requirement for Photograph and Signature of Licensee on Driver's License
- 1030.91 Person with a Disability Identification Card
- 1030.92 Restrictions
- 1030.93 Restricted Local Licenses
- 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
- 1030.95 Consular Licenses (Repealed)
- 1030.96 Seasonal Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Endorsement or Learner's Permit
- 1030.100 Anatomical Gift Donor (Repealed)
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.150 Veteran Designation on Driver's License or Identification Card

- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents – Applicants for a Driver's License, Instruction Permit, Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a) or Visa Status Temporary Visitor's Instruction Permit
- 1030.APPENDIX C Acceptable Identification Documents – Applicants for a Non-Visa Status Temporary Visitor's Driver's License or Non-Visa Status Temporary Visitor's Instruction Permit Pursuant to IVC Section 6-105.1(a-5)

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 15130, effective September 2, 1986; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007; amended at 31 Ill. Reg. 6370, effective April 12, 2007; amended at 31 Ill. Reg. 7643, effective May 16, 2007; amended at 31 Ill. Reg. 11342, effective July 18, 2007; amended at 31 Ill. Reg. 14547, effective October 9, 2007; amended at 31 Ill. Reg. 14849, effective October 22, 2007; amended at 31 Ill. Reg. 16543, effective November 27, 2007; amended at 31 Ill. Reg. 16843, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 208, effective January 2, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6544, effective April 4, 2008; amended at 33 Ill. Reg. 2391, effective January 21, 2009; amended at 33 Ill. Reg. 8489, effective June 5, 2009; amended at 33 Ill. Reg. 9794, effective June 29, 2009; amended at 33 Ill. Reg. 11620, effective July 22, 2009; amended at 33 Ill. Reg. 14185, effective September 28, 2009; amended at 34 Ill. Reg. 563, effective December 22, 2009; amended at 34 Ill. Reg. 9457, effective June 23, 2010; amended at 34 Ill. Reg. 15418, effective September 22, 2010; amended at 34 Ill. Reg. 19071, effective November 22, 2010; amended at 35 Ill. Reg. 2197, effective January 21, 2011; amended at 35 Ill. Reg. 4692, effective March 3, 2011; amended at 35 Ill. Reg. 19664, effective November 23, 2011; amended at 36 Ill. Reg. 3924, effective February 27, 2012; amended at 36 Ill. Reg. 7255, effective April 26, 2012; amended at 36 Ill. Reg. 14755, effective September 18, 2012; amended at 37 Ill. Reg. 7776, effective May 22, 2013; amended at 37 Ill. Reg. 14176, effective September 1, 2013; amended at 37 Ill. Reg. 19342, effective November 28, 2013; amended at 38 Ill. Reg. 7946, effective March 28, 2014; emergency amendment at 38 Ill. Reg. 8429, effective April 4,

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

2014, for a maximum of 150 days; amended at 38 Ill. Reg. 12515, effective July 1, 2014; amended at 38 Ill. Reg. 16366, effective July 21, 2014; amended at 38 Ill. Reg. 20039, effective October 1, 2014; amended at 39 Ill. Reg. 1182, effective January 5, 2015; amended at 39 Ill. Reg. 5083, effective March 23, 2015; amended at 39 Ill. Reg. 8028, effective May 21, 2015; amended at 39 Ill. Reg. 11531, effective July 28, 2015; amended at 39 Ill. Reg. 14930, effective October 29, 2015; amended at 40 Ill. Reg. 1882, effective January 12, 2016; amended at 40 Ill. Reg. 7330, effective May 2, 2016; amended at 40 Ill. Reg. 13637, effective September 19, 2016; amended at 40 Ill. Reg. 15397, effective October 26, 2016; amended at 41 Ill. Reg. 438, December 29, 2016; amended at 41 Ill. Reg. 3009, effective February 24, 2017; amended at 41 Ill. Reg. 13665, effective October 30, 2017; amended at 42 Ill. Reg. 1886, effective January 3, 2018; amended at 42 Ill. Reg. 2891, effective January 29, 2018; amended at 42 Ill. Reg. 4969, effective March 5, 2018; amended at 42 Ill. Reg. 11499, effective June 8, 2018; amended at 42 Ill. Reg. _____, effective _____.

Section 1030.60 Third-Party Certification Program

- a) For purposes of this Section, the following definitions shall apply:

"Cancellation of Third-Party Certifying Entity License" – the annulment or termination by formal action of the Secretary of State of a Third-Party Certifying Entity License because of some error or defect in the license or because the licensee is no longer entitled to the license.

"Cancellation of Third-Party Certification Safety Officer License" – the annulment or termination by formal action of the Secretary of State of a Third-Party Certification Safety Officer License because of some error or defect in the license or because the licensee is no longer entitled to the license.

"Certify" – transmittal to the Department by a third-party certifying entity that an employee or member of the entity has successfully passed the CDL skills tests.

"Denial of Third-Party Certifying Entity License" – to prohibit or disallow the privilege to obtain a Third-Party Certifying Entity License by the Secretary of State.

"Denial of Third-Party Certification Safety Officer License" – to prohibit or disallow the privilege to obtain a Third-Party Certification Safety Officer License by the Secretary of State.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

"Department" – the Department of Driver Services within the Office of the Secretary of State.

"Federal Motor Carrier Safety Administration" or "FMCSA" – a separate administration within the U. S. Department of Transportation dedicated to improving the safety of commercial motor vehicles and saving lives.

"Revocation of Third-Party Certifying Entity License" – the termination by formal action of the Secretary of State of a Third-Party Certifying Entity License; the termination shall not be subject to renewal or restoration.

"Revocation of Third-Party Certification Safety Officer License" – the termination by formal action of the Secretary of State of a Third-Party Certification Safety Officer License; the termination shall not be subject to renewal or restoration.

"Safety Officer" – any individual employed by a third-party certifying entity who is licensed by the Department to administer the CDL skills tests specified in subparts G and H of 49 CFR 383 (October 1, 2014) to the entities' employees and members. A safety officer is equivalent to a Third Party Skills Test Examiner as defined in 49 CFR 383.5 (October 1, 2014).

"Skills Tests" – Those tests specified in subparts G and H of 49 CFR 383 (October 1, 2014).

"Suspension of Third-Party Certifying Entity License" – the temporary withdrawal by formal action of the Secretary of State of a Third-Party Certifying Entity License for a period specifically designated by the Secretary.

"Suspension of Third-Party Certification Safety Officer License" – the temporary withdrawal by formal action of the Secretary of State of a Third-Party Certification Safety Officer License for a period specifically designated by the Secretary.

"Third-Party Certification License" – a license issued by the Secretary of State to a third-party certifying entity that allows the entity to participate in the third-party certification program.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

"Third-Party Certification Program" – a Secretary of State program that allows a third-party entity to administer the CDL skills tests specified in subparts G and H of 49 CFR 383 (October 1, 2014) to its employees or members.

"Third-Party Certifying Entity" or "Entity" – an entity licensed by the Secretary of State to participate in the third-party certification program. A third-party certifying entity is equivalent to a third party tester as defined in 49 CFR 383.5 (October 1, 2014).

- b) The Department shall not require an actual demonstration of the ability of the driver applicant to operate and exercise ordinary and reasonable control of a motor vehicle when the driver applicant has successfully completed the CDL skills tests administered by a safety officer of a third-party certifying entity, if the entity complies with the following requirements:
- 1) License Required – No person, firm, association, partnership or corporation shall operate a third-party certification program unless a license has been issued by the Secretary of State. When an application is submitted for an original third-party certification license or Safety Officer License, the applicant or applicants shall not conduct any business as a third-party certifying entity or safety officer until a license is issued by the Department pursuant to the requirements of subsections (d) and (i).
 - 2) Certify Only Employees or Members – A third-party certifying entity shall certify only those driver applicants who are employed by and on the payroll of the entity at the time of certification. Third-party entities that are unions or fire departments shall certify only those driver applicants who are members at the time of certification.
 - 3) A third-party certifying entity shall not enter into any agreement with employees/members it certifies that provides for compensation, reimbursement or any form of consideration, including but not limited to monies, credits, services or payroll withholding, payable to the third-party entity, in exchange for training and/or testing from the employee/member who is certified.
 - 4) A third-party certifying entity shall not accept compensation, reimbursement or any form of consideration, including but not limited to monies, credits, services or payroll withholding, in exchange for training

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

and/or testing from any employee/member who is certified.

- 5) A third-party certifying entity shall not engage in or permit any type of fraudulent activity, with reference to either any certified individual or the Secretary of State.
 - 6) A third-party certifying entity must enter into a written agreement with the Secretary of State that delineates the responsibilities and requirements the entity must meet and adhere to.
- c) Licenses May Not Be Assigned. No individual, partnership, association or corporation may sell, assign, barter or trade a third-party certification license or Safety Officer License issued by the Department.
- d) Requirements – Third-Party Certifying Entities
- 1) The entity shall have at least one employee who is licensed as a safety officer for the entity. A Safety Officer License may only test and certify employees or members in the classification indicated on the Safety Officer License.
 - 2) The entity shall have a regularly established place of business in the State of Illinois, with the exception of entities having a regular place of business in a contiguous state (Indiana, Missouri, Wisconsin, Iowa and Kentucky). Any entity having its headquarters in a contiguous state that wishes to participate in the third-party certification program shall have an appointed agent, for purposes of this program, who is licensed as a safety officer and holds a valid Illinois driver's license or a CDL issued by a contiguous state.
 - A) The established place of business of each entity must consist of at least the following permanent facilities:
 - i) an office facility;
 - ii) appropriate space ~~(an area at least 15 feet wide by 100 feet long)~~ to conduct all basic control skills tests pursuant to Section 1030.85.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- B) An entity that has an established place of business may operate a branch facility, provided the branch facility meets all requirements of the main facility pursuant to subsections (d)(2)(A) and (d)(2)(D).
 - C) Upon receipt by the Secretary of State of a written request to open a branch facility, an authorized representative of the Secretary of State shall inspect the branch facility and, if the facility meets the provisions of this Section, shall issue the appropriate license that must be displayed in a visibly prominent place in the branch facility.
 - D) Each location must comply with public health and safety standards contained in the Public Building Egress Act [415 ILCS 55], the Natural Gas Odor Injection Act [430 ILCS 25], and the Environmental Barriers Act [410 ILCS 25].
- 3) The entity shall submit to the Department a copy of any subcontract of services described in this Part.
 - 4) The entity shall have a prescribed physical driving course for each location and be required to meet a driving skills test with the same minimum standards as the course used for testing by the Department pursuant to Section 1030.85.
 - 5) The entity shall have access to a properly registered motor vehicle of the representative classification that the employee/member operates or expects to operate.
 - 6) The entity shall provide the employee/member who takes and passes the skills tests with a fully completed Certification of Drive Test By Third Party Certifying Entity that certifies the individual has successfully passed the skills tests administered by the safety officer of the third-party certifying entity.
 - 7) The entity shall collectively submit completed application forms to the Department for each main office, branch office and safety officer.
 - 8) The entity shall have and use a business telephone listing for all business

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

purposes.

- 9) If a licensed safety officer is temporarily suspended, laid-off or discharged by a third-party certifying entity, the entity shall immediately notify the Department, on forms furnished by the Department, of the name, address and license number of the safety officer, the officer's termination date and reason for termination. In all cases in which a safety officer has ceased working for the third-party certifying entity, the safety officer must surrender the third party Safety Officer License to the Department.
- 10) Records – All entities licensed by the Secretary of State must maintain the following records for a period of four years, at the licensed location where the testing took place:
 - A) The name and address of each employee/member certified by the entity, the instruction permit or driver's license number of every employee/member, the results of the final skills test, including endorsements, given to each employee/member, the name of the safety officer who administered the skills test, and the license plate number of the vehicle used in the test.
 - B) Proof of eligibility for certification of each employee/member certified.
 - C) Proof of proper training for each CDL certified employee/member, who did not hold a valid CDL at the time of testing or has never held a valid CDL, including dates of training and the names of all trainers that provided training, shown on the form provided by the Department or an equivalent form approved by the Department.
 - D) Documentation, including dates of training and the names of the trainers, of any training provided to each CDL certified employee/member who holds a valid CDL at the time of testing or has previously held a CDL.
 - E) Failure to maintain the required records, and/or the maintenance of incomplete records, shall be prima facie evidence that the required testing was not administered.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 11) Auditing – CDL Skills Test
- A) Entities shall allow the Department and FMCSA or its representatives to conduct random examinations, inspections and audits without prior notice pursuant to 49 CFR 385.75 and 384.229 (October 1, 2013), including audits of employment records of individuals certified by the third-party certification entity and any and all agreements or contracts governing the employer/employee relationship or entity/member relationship as it pertains to training or testing.
 - B) Entities shall allow the Department to conduct on-site inspections at least annually.
 - C) Entities shall allow Department employees to covertly take the skills tests administered by the entity's safety officer as if the Department employee were an employee or member of the entity.
 - D) Entities shall allow Department employees to co-score, along with the safety officer, during skills tests administered to the entity's employees or members to compare pass/fail results.
 - E) The Department ~~may~~ annually re-examine a percentage of the certified employees/members to compare pass/fail results and determine the percentage of certified individuals employed by, or who are members of, the third-party certifying entity.
 - i) If the results of the random examination reflect a failure rate greater than the Department's current acceptable failure rate of 20 percent, the third-party entity will be notified in writing of the need to retrain the failed applicants.
 - ii) The retraining must be completed within 30 days after the random examination, at which time the trainee must be referred to the Secretary of State to be skills tested.
 - iii) The Commercial Driver Training School Section will determine the location and time of the re-testing.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- F) The Department may re-examine any individual who was tested and certified by a third-party certifying entity.
- 12) Entities shall display in a prominent place at the established place of business the following:
- A) The license issued by the Department to the entity; and
 - B) The Safety Officer Licenses of all safety officers employed by the entity.
- 13) Prior to administering the skills tests, the entity must provide training on the CDL skills tests as specified in Section 1030.85 to each employee/member who does not currently hold, or has never held, a valid CDL. The training shall be given in equally scheduled intervals, over a period of not less than 14 days.
- 14) The entity must provide the Department with the names of all employees or members it tested and certified from a non-CDL classification to a CDL classification whose employment/membership terminated within six months after the date of certification.
- A) The Department shall cite these individuals to be retested by the Secretary of State in a properly classified vehicle. If the individual passes the skills test, the individual may maintain the driver's license classification originally certified by the entity. If the individual fails any part of the skills test, the individual shall be downgraded to the non-CDL classification he/she held prior to being certified.
 - B) The Department shall provide each entity with a Verification of Continual Employment form to assist the entity in determining the names of the employees or members who have terminated their employment/membership within six months after being certified.
- 15) The entity may not have a current unsatisfactory rating from FMCSA as defined in 49 CFR 385.3 (October 1, 2014).

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 16) The entity must submit a schedule of CDL skills tests appointments, in a manner prescribed by the Department, including but not limited to dates, times and locations of testing, to the Department, no later than two business days prior to each test.

- 17) Unless the entity is a governmental agency, the entity must secure and maintain a continuous surety bond in the Principal sum of \$10,000, underwritten by a company authorized to do business in the State of Illinois, which represents a sufficient amount to pay for re-testing drivers in the event that the entity or one or more of its safety officers is involved in fraudulent activities related to the skills testing of its employees or members. However, the aggregate liability of the surety for all breaches of the condition of the bond in no event shall exceed the Principal sum of \$10,000. The surety on any bond may cancel the bond on giving 30 days notice in writing to the Secretary of State and shall be relieved of liability for any breach of any conditions of the bond that occurs after the effective date of cancellation. All bonds filed pursuant to this provision shall be in substantially the following form:

Know All Persons by These Presents, That We, _____, of _____, hereinafter referred to as Principal and _____, a corporation organized and existing to do business in the State of Illinois, for the use and benefit of all persons who may be damaged by breach of this bond, as Obligees, in the penal sum of \$10,000, lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our executors, administrators, successors and assigns, firmly by these presents. The condition of this obligation is such that the Principal has made application to the Illinois Secretary of State for licensure as a third-party certifying entity for the purpose of administering CDL skills tests to employees or members of the Principal. Therefore, if the Principal faithfully complies with the Illinois Vehicle Code and all State and federal rules and regulations that have been or may hereafter be in force concerning the license, and shall save and keep harmless the Illinois Secretary of State, the Obligee, from all loss or damage that may be sustained as a result of re-testing drivers in the event that the Principal or one or more of its safety officers is involved in fraudulent activities related to conducting skills testing of applicants for a commercial driver's license this obligation shall be void; otherwise, this

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

obligation shall remain in full force and effect. The bond will expire but may be continued by renewal certificate signed by Principal and Surety. Regardless of the number of years this bond is in effect, the number of third-party certifying entity license renewals, the number of premiums paid or the number of claims made, the Surety's aggregate liability shall not be more than the penal sum of this bond. The Surety may at any time terminate its liability by giving 30 days written notice to the SOS Commercial Driver Training Section, 650 Roppolo Drive, Elk Grove Village, Illinois 60007, and the Surety shall not be liable for any default after that 30 day notice period, except for defaults occurring prior thereto.

Signed, Sealed and Dated this _____ day of _____, 20 _____

Principal _____

Surety _____

By _____
Attorney-in-fact

18) Within three days after an employee or member passes the CDL skills tests administered by the entity, the entity shall transmit the score sheet to the Department through secure electronic means prescribed by the Department.

e) Skills Tests

1) Any CDL or school bus skills tests administered by an entity must be conducted by a safety officer as specified in 49 CFR 383.75 (October 1, 2014). A safety officer licensed to administer skills tests is prohibited from administering a skills test to an individual who received skills training from that safety officer.

2) Driving Skills – The entity shall have a prescribed physical driving course for each location and is required to administer a skills test with the same minimum standards used by the Department as provided in Section 1030.85.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 3) Pre-Trip Inspection – When applicable, the entity shall test and the employee/member shall demonstrate skills necessary to conduct a pre-trip inspection, which include the ability to:
 - A) locate and verbally identify air brake operating controls and monitoring devices;
 - B) determine the motor vehicle's brake system condition for proper adjustments and that the air system connections between vehicles have been properly made and secured;
 - C) inspect low pressure warning devices to ensure they will activate in emergency situations;
 - D) ascertain, with the engine running, that the system contains an adequate supply of compressed air;
 - E) determine that the required minimum air pressure build up at the time is within acceptable limits and that required alarms and emergency devices automatically deactivate at the proper pressure level; and
 - F) operationally check the brake system for proper performance.
- 4) Restrictions and/or Endorsements – Entities – conducting skills tests for restrictions, passenger endorsements and/or school bus endorsements must administer a skills test with the same minimum standards as a test administered by the Department as provided in Section 1030.92.
- 5) Entities conducting road tests for motorcycle and non-CDL A, B or C classifications are not bound by subsections (e)(1) through (4), but instead must meet a road test prescribed by the Department as provided in Section 1030.85.
 - A) Motorcycle skills tests must include at least the following:
 - i) basic vehicle control skills;
 - ii) safe driving skills;

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- iii) visual search;
 - iv) speed and space management; and
 - v) mounting and dismounting.
- B) Non-CDL A, B or C classification road tests must include at least the following:
- i) basic vehicle operation;
 - ii) safe driving skills;
 - iii) speed and attention;
 - iv) lane and right of way observance;
 - v) obeying traffic control devices; and
 - vi) use of special equipment.
- 6) Require Instruction Permit – Before an employee/member may be skills tested and certified by an entity, the employee/member must obtain an instruction permit from the Department for the specific vehicle classification in which he/she intends to be licensed. The employee/member must hold a valid instruction permit for a period of at least two weeks prior to being skills tested and certified by an entity, if not currently licensed in the classification representative of the vehicle the employee/member intends to drive.
- f) Issuance of Third-Party Certifying Entity Licenses
- 1) The Department shall issue a license to conduct business as a third-party certification program when satisfied the entity applying for a third-party certification license has met the requirements.
 - 2) All licenses issued to any third-party certifying entity shall remain valid unless canceled, suspended or revoked. The Department shall send

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

affidavits to, and conduct audits of, each licensee annually to determine that the licensee remains in compliance with the requirements.

- g) Denial, Cancellation, Suspension and Revocation of Third-Party Certifying Entity Licenses
- 1) The Secretary of State shall deny an application for a third-party certifying entity license:
- A) to any entity that submits a fraudulent application.
 - B) to any entity that currently employs individuals currently employed by the Secretary of State.
 - C) to any entity that owes outstanding fees to the Secretary of State.
 - D) to any third-party certifying entity that lacks a safety officer.
 - E) when an entity's physical location:
 - i) fails to comply with public health and safety standards contained in the Public Building Egress Act [45 ILCS 55], the Natural Gas Odor Injection Act [430 ILCS 25], and/or the Environmental Barriers Act [410 ILCS 25].
 - ii) fails to have a telephone that is registered to the entity.
 - F) to any entity with a current unsatisfactory rating from FMCSA.
 - G) to any commercial driver training school.
 - H) to any entity that enters into any agreement with employees/members it certifies that provides for compensation or any form of consideration, including but not limited to monies, credits, services or payroll withholding, in exchange for training and/or testing from the certified employee/member.
 - I) to any entity that accepts compensation or any form of consideration, including but not limited to monies, credits, services

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

or payroll withholding, in exchange for training and/or testing from any certified employee/member who is certified.

- J) to any entity that fails to maintain a continuous surety bond.
- 2) The Department may cancel a third-party certifying entity license for failing to correct, after five business days, any of the following violations:
- A) the entity employs individuals currently employed by the Secretary of State.
 - B) the entity owes outstanding fees to the Secretary of State.
 - C) the entity lacks a safety officer.
 - D) the entity fails to meet location standards by:
 - i) failing to comply with public health and safety standards contained in the Public Building Egress Act [45 ILCS 55], the Natural Gas Odor Injection Act [430 ILCS 25], and the Environmental Barriers Act [410 ILCS 25].
 - ii) failing to have a telephone that registers to the third-party certification entity.
 - E) the entity currently has an unsatisfactory rating from FMCSA.
 - F) the entity is a commercial driver training school.
 - G) the entity fails to maintain a continuous surety bond.
- 3) The Department may suspend for up to one year or revoke a entity's license for any violation of this Section, depending on the seriousness of the violation, whether the violation has been corrected, and how long the violation was unremediated.
- h) Issuance of Safety Officer License
- 1) The Department shall issue a license to each safety officer when satisfied

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

that the person has met the qualifications required under this Section. Each Safety Officer License shall authorize the licensee to administer tests solely for the employer indicated on the license, except when the safety officer is employed by an entity providing contractual services to the third-party certification entity.

- 2) An individual may be issued two safety officer licenses in the following combinations:
 - A) as a safety officer for two governmental agencies; or
 - B) as a safety officer for a private entity and a governmental agency.
 - 3) All licenses issued to any safety officer shall remain valid unless canceled, suspended or revoked.
- i) Safety Officer
- 1) Requirements
 - A) A safety officer may only test and certify employees or members in the class that is indicated on his/her Safety Officer License.
 - B) A safety officer who applies to administer skills tests to individuals for CDLs must complete a CDL skills test examiner training course and examination in accordance with 49 CFR 384.228(d) and (e) (October 1, 2014) and submit to a nationwide criminal background check in accordance with 49 CFR 384.228 (October 1, 2014). Fingerprints shall be submitted to the Illinois State Police in accordance with 20 Ill. Adm. Code 1265.30.
 - C) A safety officer must conduct skills testing in accordance with subsection (e).
 - D) A safety officer shall not engage in or permit any type of fraudulent activity, either with reference to any certified employee or member or the Secretary of State.
 - E) A safety officer must maintain records in accordance with

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

subsection (d)(10).

- F) If a safety officer ~~that~~ does not administer at least 10 separate skills tests per calendar year, the entity shall allow a Department employee to accompany the safety officer to observe the safety officer successfully administer at least one skills test or the safety officer may take the refresher training specified in 49 CFR 384.228.
 - G) If a safety officer licensed to administer CDL skills tests to employees or members must successfully complete a refresher training course and written examination every four years to maintain his/her CDL Safety Officer License.
- 2) Denial of License. The Department shall deny a safety officer's license upon evidence the individual:
- A) has been convicted of driving under the influence of alcohol and/or other drugs (see IVC Section 11-501), leaving the scene of a fatal accident (see IVC Section 11-401), reckless homicide (see Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3]), reckless driving (see IVC Section 11-503), or similar out-of-state offenses within 10 years prior to the date of application; or has been convicted two or more times of any of these offenses or combination of these offenses within 20 years prior to the date of application.
 - B) fails to properly make application for the license.
 - C) is not employed by a third-party certifying entity.
 - D) is currently a salaried employee of the Secretary of State.
 - E) is not at least 21 years of age.
 - F) submits a fraudulent application.
 - G) owes outstanding fees to the Secretary of State.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- H) holds a driver's license that is currently canceled, suspended or revoked.
 - D) holds a driver's license that was suspended or revoked within a period of five years prior to the date of application. However, suspensions related to auto emissions, failure to pay child support and parking will not be considered.
 - J) has not held, for at least two years immediately preceding application, a valid Illinois driver's license or a driver's license from a contiguous state in the classification and/or endorsement in which he/she intends to administer skills tests.
 - K) does not meet the requirements of subsection (i)(1)(B).
 - L) is an owner or instructor of a commercial driver training school.
 - M) has been suspended pursuant to IVC Section 11-501.1, 11-501.6 or 11-501.8 within the 10 years prior to the date of application, or has had two or more suspensions pursuant to IVC Section 11-501.1, 11-501.6 or 11-501.8, or combination thereof, within the 20 years prior to the date of application.
 - N) violated any subsection of this Section.
 - O) has any felony conviction within the last 10 years (applies only to persons applying to administer CDL skills tests).
 - P) has any conviction involving fraudulent activities (applies only to persons applying to administer CDL skills tests).
- 3) The Department shall immediately cancel a safety officer's license upon evidence that the individual:
- A) holds a driver's license that is currently canceled, suspended or revoked.
 - B) has not held, for at least two years immediately preceding application, a valid license in the classification and/or endorsement

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

in which the individual intends to test.

- C) administers CDL skills tests to employees/members, but has not completed the training and testing specified in subsection (i)(1)(B).
 - D) is no longer employed by the third-party certification entity or no longer has a valid license.
 - E) is currently a salaried employee of the Secretary of State.
 - F) owes outstanding fees to the Secretary of State.
 - G) is an owner or instructor of a commercial driver training school.
 - H) has a felony conviction within the last 10 years (applies only to persons administering CDL skills tests).
 - I) has any conviction involving fraudulent activities (applies only to persons administering CDL skills tests).
 - J) fails to successfully complete a refresher training course and examination every four years (applies only to persons administering CDL skills tests).
- 4) The Department may suspend for up to one year or revoke a safety officer's license for any violation of this Section, depending on the seriousness of the violation, whether the violation has been corrected, and how long the violation was unremediated.
- 5) The Department shall have the discretionary authority to issue warning letters to third-party certifying entities or safety officers for violations of this Section.
- j) Hearings
- 1) Prior to the denial of a third-party certifying entity and/or safety officer's license, the Department shall send written notice to the entity and/or person. The third-party entity and/or safety officer may request a formal hearing to contest the denial. The basis for denial of a license is stated in

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

subsections (g)(1) through (3) and (i)(2)(A) through (O).

- 2) Prior to the suspension or revocation of the license or accreditation of a third-party certifying entity or safety officer, the Department will conduct a hearing in accordance with 92 Ill. Adm. Code 1001, Subpart A and IVC Section 2-118, in which the Department will present competent evidence to establish violations of any regulations or laws governing third-party entities and/or safety officers and seek the appropriate sanctions.
- k) Review Under Administrative Law. Judicial Review – The action of the Secretary of State in canceling, suspending, revoking or denying any license under this Act shall be subject to judicial review in accordance with IVC Section 2-118 and the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1030.88 Exemption of Facility Administered Road Test

- a) The Department shall exempt a high school student from a facility-administered road test if the student has earned a grade of A or B for an approved high school driver education course, passed a road test administered by a Department certified high school driver education instructor, and received an authorization form signed by the driver education instructor exempting the student from the facility-administered road test.
- b) Commercial driver training schools licensed pursuant to IVC Section 6-401 shall not be allowed to participate in the cooperative driver testing program.
- c) Each local board of education that wants to participate in the cooperative driver testing program must submit an application to the Field Services Bureau, Department of Driver Services of the Secretary of State's Office, 2701 S. Dirksen Parkway, Springfield, Illinois 62723. The application shall consist of the Cooperative Driver Testing Program Intent to Participate form and also a Compliance Affidavit for each participating driver education instructor. The application shall include the name and address of the high school and the names of the driver education instructors who will participate in the program. The application shall also include a statement that the schools and instructors listed for participation in the program shall administer a road test. The application shall be submitted once per calendar year. The Department shall accept all Intent to

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

Participate forms that are accurate and complete and signed by the district superintendent. The Department shall accept all Compliance Affidavits that are accurate and complete and that show compliance with subsection (e).

- d) Each instructor shall submit a compliance affidavit that shows the instructor is an accredited driver education teacher with the Illinois State Board of Education pursuant to 23 Ill. Adm. Code 1.730(q), possesses either a valid Illinois driver's license or a valid and properly classified out-of-state driver's license with submission annually of an acceptable, certified out-of-state driving abstract, and shall have attended an initial certification clinic offered by the Department.
- e) The exemption from the facility testing will expire on the same day as the student's current instruction permit. The student shall be required to obtain a valid driver's license prior to the expiration date of the permit in accordance with the program. After the expiration date, the student shall complete a facility-administered road test. No extension of the exemption from facility testing beyond the expiration date of the instruction permit shall be allowed.
- f) The Department shall spot-check a sample of the exempted driver population. The Field Services Bureau of the Department shall choose the sample to be tested based on the applicant's birthday. Three calendar days per month shall be designated for the testing, and an applicant whose birthday is on one of the selected days shall be required to successfully complete a facility-administered drive test. The selected dates shall be altered every three months.
- g) The exemption authorization form shall be designated in a manner prescribed by the Department. The student shall submit the authorization form to a Driver Services Facility employee of the Department when applying for a driver's license.
- h) The Department shall exempt an applicant for a Class M or Class L driver's license (see Section 1030.30), which allows operation of a motorcycle and/or motor-driven cycle, from a facility-administered road test if the applicant:
 - 1) is 18 years of age or older;
 - 2) possesses a valid Illinois driver's license to operate any other classification of motor vehicle; and

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 3) shows acceptable proof of completion of a motorcycle rider safety training course approved by the Illinois Department of Transportation stating the individual is qualified to operate a motorcycle and/or motor-driven cycle with the cubic centimeter piston displacement that correlates to the classification of driver's license applied for. Successful completion of the motorcycle rider safety training course shall be evidenced by a Student Completion Card issued by the Illinois Department of Transportation not more than one year prior to the date of application.

- 4) is an active duty member of the United States Armed Forces and presents a motorcycle rider training/testing course completion card issued by the Motorcycle Safety Foundation, dated not more than one year prior to the date of application, that indicates the applicant is qualified to operate a motorcycle and/or motor-driven cycle with cubic centimeter piston displacement that correlates to the classification of driver's license for which the applicant is applying. The completion card must be accompanied by an Illinois Secretary of State approved verification form completed by the applicant and examiner certified by the Motorcycle Safety Foundation.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Alcoholism and Substance Abuse Treatment and Intervention Licenses
- 2) Code Citation: 77 Ill. Adm. Code 2060
- 3) Section Number: 2060.318 Adopted Action:
New Section
- 4) Statutory Authority: Implementing and authorized by the Illinois Vehicle Code [625 ILCS 5] and the Alcoholism and Other Drug Dependency Act [20 ILCS 301].
- 5) Effective Date of Rule: July 18, 2018
- 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 rulemaking, 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. 14878; December 8, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Yes
- 11) Differences between Proposal and Final Version: Various grammatical and technical changes were made to Section 2060.318 since First Notice. An explanation of the rate modification methodology has also been added.
- 12) Have all 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? No
- 15) Summary and Purpose of Rulemaking: 77 Ill. Adm. Code 2060 contains the licensure requirements and clinical standards for organizations that engage in intervention and treatment services for persons with substance use disorders. This rulemaking adds a new

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

section to include information on the rate methodology for increases in rates for licensees who also receive funding from DHS/DASA.

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

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

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER X: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: LICENSURE

PART 2060
ALCOHOLISM AND SUBSTANCE ABUSE TREATMENT
AND INTERVENTION LICENSES

SUBPART A: GENERAL REQUIREMENTS

- Section
2060.101 Applicability
2060.103 Incorporation by Reference and Definitions

SUBPART B: LICENSURE REQUIREMENTS

- Section
2060.201 Types of Licenses
2060.203 Off-Site Delivery of Services
2060.205 Unlicensed Practice
2060.207 Organization Representative
2060.209 Ownership Disclosure
2060.211 License Application Forms
2060.213 License Application Fees
2060.215 Period of Licensure
2060.217 License Processing/Review Requirements
2060.219 Renewal of Licensure
2060.221 Change of Ownership/Management
2060.223 Dissolution of the Corporation
2060.225 Relocation of Facility
2060.227 License Certificate Requirements
2060.229 Deemed Status (Repealed)

SUBPART C: REQUIREMENTS – ALL LICENSES

- Section
2060.301 Federal, State and Local Regulations and Court Rules
2060.303 Rule Exception Request Process
2060.305 Facility Requirements

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

2060.307	Service Termination/Record Retention
2060.309	Professional Staff Qualifications
2060.311	Staff Training Requirements
2060.313	Personnel Requirements and Procedures
2060.315	Quality Improvement
2060.317	Service Fees
<u>2060.318</u>	<u>Reimbursement Rates and Rate Modification Methodology</u>
2060.319	Confidentiality – Patient Information
2060.321	Confidentiality – HIV Antibody/AIDS Status
2060.323	Patient Rights
2060.325	Patient/Client Records
2060.327	Emergency Patient Care
2060.329	Referral Procedure
2060.331	Incident and Significant Incident Reporting
2060.333	Complaints
2060.335	Inspections
2060.337	Investigations
2060.339	License Sanctions
2060.341	License Hearings

SUBPART D: REQUIREMENTS – TREATMENT LICENSES

Section	
2060.401	Levels of Care
2060.403	Court Mandated Treatment
2060.405	Detoxification
2060.407	Group Treatment
2060.409	Patient Education
2060.411	Recreational Activities
2060.413	Medical Services
2060.415	Infectious Disease Control
2060.417	Assessment for Patient Placement
2060.419	Assessment for Treatment Planning
2060.421	Treatment Plans
2060.423	Continued Stay Review
2060.425	Progress Notes and Documentation of Service Delivery
2060.427	Continuing Recovery Planning and Discharge

SUBPART E: REQUIREMENTS – INTERVENTION LICENSES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Section

2060.501	General Requirements
2060.503	DUI Evaluation
2060.505	DUI Risk Education
2060.507	Designated Program
2060.509	Recovery Homes

AUTHORITY: Implementing and authorized by the Illinois Vehicle Code [625 ILCS 5] and the Alcoholism and Other Drug Dependency Act [20 ILCS 301].

SOURCE: Adopted at 20 Ill. Reg. 13519, effective October 3, 1996; recodified from Department of Alcoholism and Substance Abuse to Department of Human Services at 21 Ill. Reg. 9319; emergency amendment at 23 Ill. Reg. 4488, effective April 2, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10803, effective August 23, 1999; amended at 25 Ill. Reg. 11063, effective August 14, 2001; amended at 26 Ill. Reg. 16913, effective November 8, 2002; amended at 27 Ill. Reg. 13997, effective August 8, 2003; amended at 42 Ill. Reg. 14377, effective July 18, 2018.

SUBPART C: REQUIREMENTS – ALL LICENSES

Section 2060.318 Reimbursement Rates and Rate Modification Methodology

- a) Reimbursement rates for Department funding and/or for services reimbursed through Medicaid are or have been developed through the application of Department approved formal methodologies specific to each reimbursable service. Unique to each service, a mean is then established and a standardized rate adopted with the exception of provider specific rates for certain residential and withdrawal management levels of care.
- b) When an increase to an appropriation is made specifically for a cost of living adjustment (COLA) to Department established rates, the Department will increase all treatment provider service rates by the same percent and all contract awards by the same corresponding percent using the increased funds available, unless the appropriation results in an increase of 1 percent or less to each individual provider, or an increase of 1 percent or less for each category of service. If this occurs, increases to established rates and awards will be made to one or more specific categories of funded treatment/recovery service providers using the increased appropriations available. All funded providers that deliver the selected

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

service or services will receive a uniform rate/award increase within their category of service. Services targeted for increased rates or awards will be selected based on the following criteria:

- 1) The amount of increase to appropriated funds;
 - 2) The need for provider capacity enhancement or expansion;
 - 3) Analysis of the impact of the rate increase on other State agencies that fund substance use disorder services;
 - 4) Analysis of prior State fiscal year earnings posted by vendor or location;
 - 5) Based upon the analysis of earnings and appropriated funds, a determination of the total value of the rate increase in order to keep earnings liabilities within the available appropriation; and
 - 6) The ability of the Department to continue the rate increase into future fiscal years if budget requests are approved.
- c) A general increase in an appropriation that is not specified as a COLA shall be awarded according to the legislative direction associated with the increase or by language in the budget implementation plan for that State fiscal year. Increases of this nature may be directed to a provider, a program, or another purpose by the General Assembly. If a general appropriation increase exceeds the 1 percent parameters specified in subsection (b) and the General Assembly provides no direction on how the Department shall allocate the increase, the Department will modify all rates and contract awards by the same percent.
- d) All rates or rate modifications are effective only after approval by the Department and, for covered services reimbursed through Medicaid, the Illinois Department of Healthcare and Family Services (HFS) in its capacity as the Medicaid single state agency.
- e) Licensed/certified organizations and the public shall be informed of any changes in the methods and standards of determining reimbursement rates for services funded under this Part pursuant to 42 CFR 447.205 (2003).

(Source: Added at 42 Ill. Reg. 14377, effective July 18, 2018)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Adopted Actions:
 140.44 Amendment
 140.94 Repealed
 140.95 Repealed
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rules: July 23, 2018
- 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 materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 12709; October 13, 2017 and 41 Ill. Reg. 13532; November 13, 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 agreements issued by JCAR? No changes were requested.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? Yes

<u>Sections:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
140.417	Amendment	42 Ill. Reg. 27; January 5, 2018
140.3	Amendment	42 Ill. Reg. 7285; April 20, 2018
140.6	Amendment	42 Ill. Reg. 7285; April 20, 2018
140.413	Amendment	42 Ill. Reg. 7285; April 20, 2018

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.421	Amendment	42 Ill. Reg. 8119; May 18, 2018
140.513	Amendment	42 Ill. Reg. 9052; June 8, 2018
140.80	Amendment	42 Ill. Reg. 13411; July 13, 2018
140.452	Amendment	42 Ill. Reg. 14043; July 20, 2018
140.453	Amendment	42 Ill. Reg. 14043; July 20, 2018
140.455	Amendment	42 Ill. Reg. 14043; July 20, 2018
140.460	Amendment	42 Ill. Reg. 14043; July 20, 2018
140.TABLE N	Amendment	42 Ill. Reg. 14043; July 20, 2018

- 15) Summary and Purpose of Rulemaking: This rulemaking eliminates defunct provider assessment programs operated out of the Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund, and Hospital Services Trust Fund. This rulemaking also updates the Department of Healthcare and Family Services – Office of Inspector General's (HFS-OIG) address.
- 16) Information and questions regarding these adopted rules shall be directed to:

Christopher Gange
Acting General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

HFS.Rules@Illinois.gov

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to 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 ADOPTED 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
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of 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

- Section
- 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

NOTICE OF ADOPTED AMENDMENTS

140.86	Supportive Living Facility Funds
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund (Repealed)
140.95	Hospital Services Trust Fund (Repealed)
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)
140.202	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)
140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Review Procedure (Recodified)
140.373	Utilization (Repealed)
140.374	Alternatives (Recodified)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section

- 140.400 Payment to Practitioners
- 140.402 Copayments for Noninstitutional Medical Services
- 140.403 Telehealth Services
- 140.405 Non-Institutional Rate Reductions
- 140.410 Physicians' Services
- 140.411 Covered Services By Physicians
- 140.412 Services Not Covered By Physicians
- 140.413 Limitation on Physician Services
- 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
- 140.416 Optometric Services and Materials
- 140.417 Limitations on Optometric Services
- 140.418 Department of Corrections Laboratory
- 140.420 Dental Services
- 140.421 Limitations on Dental Services
- 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
- 140.423 Licensed Clinical Psychologist Services
- 140.424 Licensed Clinical Social Worker Services
- 140.425 Podiatry Services
- 140.426 Limitations on Podiatry Services
- 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
- 140.428 Chiropractic Services
- 140.429 Limitations on Chiropractic Services (Repealed)
- 140.430 Independent Clinical Laboratory Services
- 140.431 Services Not Covered by Independent Clinical Laboratories

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.432	Limitations on Independent Clinical Laboratory Services
140.433	Payment for Clinical Laboratory Services
140.434	Record Requirements for Independent Clinical Laboratories
140.435	Advanced Practice Nurse Services
140.436	Limitations on Advanced Practice Nurse Services
140.438	Diagnostic Imaging Services
140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
140.444	Compounded Prescriptions
140.445	Legend Prescription Items (Not Compounded)
140.446	Over-the-Counter Items
140.447	Reimbursement
140.448	Returned Pharmacy Items
140.449	Payment of Pharmacy Items
140.450	Record Requirements for Pharmacies
140.451	Prospective Drug Review and Patient Counseling
140.452	Community-based Mental Health Providers Qualified for Payment
140.453	Community-based Mental Health Service Definitions and Professional Qualifications
140.454	Types of Mental Health Services
140.455	Payment for Mental Health Services
140.456	Hearings
140.457	Therapy Services
140.458	Prior Approval for Therapy Services
140.459	Payment for Therapy Services
140.460	Clinic Services
140.461	Clinic Participation, Data and Certification Requirements
140.462	Covered Services in Clinics
140.463	Clinic Service Payment
140.464	Hospital-Based and Encounter Rate Clinic Payments
140.465	Speech and Hearing Clinics (Repealed)
140.466	Rural Health Clinics (Repealed)
140.467	Independent Clinics
140.469	Hospice
140.470	Eligible Home Health Care, Nursing and Public Health Providers
140.471	Description of Home Health Care Services
140.472	Home Health Care Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.473	Prior Approval for Home Health Care Services
140.474	Payment for Home Health Care Services
140.475	Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.476	Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
140.477	Limitations on Equipment, Prosthetic Devices and Orthotic Devices
140.478	Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.479	Limitations, Medical Supplies
140.480	Equipment Rental Limitations
140.481	Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
140.482	Family Planning Services
140.483	Limitations on Family Planning Services
140.484	Payment for Family Planning Services
140.485	Healthy Kids Program
140.486	Illinois Healthy Women
140.487	Healthy Kids Program Timeliness Standards
140.488	Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
140.490	Medical Transportation
140.491	Medical Transportation Limitations and Authorization Process
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.494	Record Requirements for Medical Transportation Services
140.495	Psychological Services
140.496	Payment for Psychological Services
140.497	Hearing Aids
140.498	Fingerprint-Based Criminal Background Checks
140.499	Behavioral Health Clinic

SUBPART E: GROUP CARE

Section	
140.500	Long Term Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Informal Hearing Process for Denial of Payment for New ICF/MR
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 140.510 Determination of Need for Group Care
- 140.511 Long Term Care Services Covered By Department Payment
- 140.512 Utilization Control
- 140.513 Notification of Change in Resident Status
- 140.514 Certifications and Recertifications of Care (Repealed)
- 140.515 Management of Recipient Funds – Personal Allowance Funds
- 140.516 Recipient Management of Funds
- 140.517 Correspondent Management of Funds
- 140.518 Facility Management of Funds
- 140.519 Use or Accumulation of Funds
- 140.520 Management of Recipient Funds – Local Office Responsibility
- 140.521 Room and Board Accounts
- 140.522 Reconciliation of Recipient Funds
- 140.523 Bed Reserves
- 140.524 Cessation of Payment Due to Loss of License
- 140.525 Quality Incentive Program (QUIP) Payment Levels
- 140.526 County Contribution to Medicaid Reimbursement (Repealed)
- 140.527 Quality Incentive Survey (Repealed)
- 140.528 Payment of Quality Incentive (Repealed)
- 140.529 Reviews (Repealed)
- 140.530 Basis of Payment for Long Term Care Services
- 140.531 General Service Costs
- 140.532 Health Care Costs
- 140.533 General Administration Costs
- 140.534 Ownership Costs
- 140.535 Costs for Interest, Taxes and Rent
- 140.536 Organization and Pre-Operating Costs
- 140.537 Payments to Related Organizations
- 140.538 Special Costs
- 140.539 Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
- 140.540 Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
- 140.541 Salaries Paid to Owners or Related Parties
- 140.542 Cost Reports – Filing Requirements
- 140.543 Time Standards for Filing Cost Reports
- 140.544 Access to Cost Reports (Repealed)
- 140.545 Penalty for Failure to File Cost Reports

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 140.550 Update of Operating Costs
- 140.551 General Service Costs Updates
- 140.552 Nursing and Program Costs
- 140.553 General Administrative Costs Updates
- 140.554 Component Inflation Index (Repealed)
- 140.555 Minimum Wage
- 140.560 Components of the Base Rate Determination
- 140.561 Support Costs Components
- 140.562 Nursing Costs
- 140.563 Capital Costs
- 140.565 Kosher Kitchen Reimbursement
- 140.566 Out-of-State Placement
- 140.567 Level II Incentive Payments (Repealed)
- 140.568 Duration of Incentive Payments (Repealed)
- 140.569 Clients With Exceptional Care Needs
- 140.570 Capital Rate Component Determination
- 140.571 Capital Rate Calculation
- 140.572 Total Capital Rate
- 140.573 Other Capital Provisions
- 140.574 Capital Rates for Rented Facilities
- 140.575 Newly Constructed Facilities (Repealed)
- 140.576 Renovations (Repealed)
- 140.577 Capital Costs for Rented Facilities (Renumbered)
- 140.578 Property Taxes
- 140.579 Specialized Living Centers
- 140.580 Mandated Capital Improvements (Repealed)
- 140.581 Qualifying as Mandated Capital Improvement (Repealed)
- 140.582 Cost Adjustments
- 140.583 Campus Facilities
- 140.584 Illinois Municipal Retirement Fund (IMRF)
- 140.590 Audit and Record Requirements
- 140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
- 140.643 In-Home Care Program
- 140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21 (Repealed)
- 140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.647	Description of Developmental Training (DT) Services
140.648	Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
140.649	Effective Dates of Reimbursement for Developmental Training (DT) Programs
140.650	Certification of Developmental Training (DT) Programs
140.651	Decertification of Day Programs
140.652	Terms of Assurances and Contracts
140.680	Effective Date Of Payment Rate
140.700	Discharge of Long Term Care Residents
140.830	Appeals of Rate Determinations
140.835	Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND
LOCAL GOVERNMENTAL ENTITIES

Section	
140.850	Reimbursement of Administrative Expenditures
140.855	Administrative Claim Review and Reconsideration Procedure
140.860	County Owned or Operated Nursing Facilities
140.865	Sponsor Qualifications (Repealed)
140.870	Sponsor Responsibilities (Repealed)
140.875	Department Responsibilities (Repealed)
140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
140.890	Payment Methodology (Repealed)
140.895	Contract Monitoring (Repealed)
140.896	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 140.910 Referrals (Recodified)
- 140.911 Basic Rehabilitation Aide Training Program (Recodified)
- 140.912 Interim Nursing Rates (Recodified)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section

- 140.920 General Description
- 140.922 Covered Services
- 140.924 Maternal and Child Health Provider Participation Requirements
- 140.926 Client Eligibility (Repealed)
- 140.928 Client Enrollment and Program Components (Repealed)
- 140.930 Reimbursement
- 140.932 Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND
REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section

- 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
- 140.942 Definition of Terms (Recodified)
- 140.944 Notification of Negotiations (Recodified)
- 140.946 Hospital Participation in ICARE Program Negotiations (Recodified)
- 140.948 Negotiation Procedures (Recodified)
- 140.950 Factors Considered in Awarding ICARE Contracts (Recodified)
- 140.952 Closing an ICARE Area (Recodified)
- 140.954 Administrative Review (Recodified)
- 140.956 Payments to Contracting Hospitals (Recodified)
- 140.958 Admitting and Clinical Privileges (Recodified)
- 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
- 140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
- 140.964 Contract Monitoring (Recodified)
- 140.966 Transfer of Recipients (Recodified)
- 140.968 Validity of Contracts (Recodified)
- 140.970 Termination of ICARE Contracts (Recodified)
- 140.972 Hospital Services Procurement Advisory Board (Recodified)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
- 140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

Section

- 140.990 Primary Care Case Management Program
- 140.991 Primary Care Provider Participation Requirements
- 140.992 Populations Eligible to Participate in the Primary Care Case Management Program
- 140.993 Care Management Fees
- 140.994 Panel Size and Affiliated Providers
- 140.995 Mandatory Enrollment
- 140.996 Access to Health Care Services
- 140.997 Payment for Services

SUBPART J: ALTERNATE PAYEE PARTICIPATION

Section

- 140.1001 Registration Conditions for Alternate Payees
- 140.1002 Participation Requirements for Alternate Payees
- 140.1003 Recovery of Money for Alternate Payees
- 140.1004 Conditional Registration for Alternate Payees
- 140.1005 Revocation of an Alternate Payee

SUBPART K: MANDATORY MCO ENROLLMENT

Section

- 140.1010 Mandatory Enrollment in MCOs

SUBPART L: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

Section

- 140.1300 Definitions
- 140.1310 Recovery of Money
- 140.1320 Penalties

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.1330 Enforcement

140.TABLE A	Criteria for Non-Emergency Ambulance Transportation
140.TABLE B	Geographic Areas
140.TABLE C	Capital Cost Areas
140.TABLE D	Schedule of Dental Procedures
140.TABLE E	Time Limits for Processing of Prior Approval Requests
140.TABLE F	Podiatry Service Schedule
140.TABLE G	Travel Distance Standards
140.TABLE H	Areas of Major Life Activity
140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)
140.TABLE J	Rate Regions
140.TABLE K	Services Qualifying for 10% Add-On (Repealed)
140.TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
140.TABLE M	Enhanced Rates for Maternal and Child Health Provider Services (Repealed)
140.TABLE N	Program Approval for Specified Behavioral Health Services
140.TABLE O	Criteria for Participation as a Behavioral Health Clinic

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; preemptory 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;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

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; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, 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.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

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 May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory 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; peremptory 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,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

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 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 42 Ill. Reg. 4829, effective March 1, 2018; amended at 42 Ill. Reg. 12986, effective June 25, 2018; emergency amendment at 42 Ill. Reg. 13688, effective July 2, 2018, for a maximum of 150 days; amended at 42 Ill. Reg. 14383, effective July 23, 2018.

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.44 Withholding of Payments Due to Fraud or Misrepresentation

- a) Effective July 1, 2012, payments on pending and subsequently submitted bills may be withheld, in whole or in part, to a provider or alternate payee, when there

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

is credible evidence from State or federal law enforcement or federal oversight agencies or from the results of a preliminary Department audit that the circumstances giving rise to the need for a withholding of payments may involve fraud or willful misrepresentation under the Illinois Medical Assistance Program. Payments may be withheld without first notifying the provider or alternate payee of its intention to withhold the payments.

- b) The Department must send notice of its withholding within 5 days after taking that action. The notice must set forth the general allegations as to the nature of the withholding, but need not disclose any specific information concerning the ongoing investigation. The notice must also state the following:
- 1) The payments are being withheld in accordance with Section 12-4.25(K) of the Public Aid Code.
 - 2) The withholding is for a temporary period; the notice shall cite the circumstances under which withholding will be terminated.
 - 3) When appropriate, the type of claim for which withholding is effective.
 - 4) The provider or alternate payee has the right to submit written evidence for reconsideration of the withholding of payments by the Department.
 - 5) A written request may be made to the Department for full or partial release of withheld payments and the request may be made at any time after the Department first withholds the payments.
- c) All withholding of payment actions under this Section shall be temporary and shall not continue after any of the following:
- 1) The Department or the prosecuting authorities determine that there is insufficient evidence of fraud or willful misrepresentation by the provider or alternate payee.
 - 2) Legal proceedings related to the provider's or alternate payee's alleged fraud, willful misrepresentation, or violations of Article V of the Illinois Public Aid Code or violations of 89 Ill. Adm. Code: Chapter I are completed. If the Department commences an administrative proceeding that seeks the termination of the provider or revocation of the alternate

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

payee, withholding will continue in conformance with 89 Ill. Adm. Code 104.272.

- 3) The withholding of payments for a period of 3 years.
- d) The provider or alternate payee request for reconsideration of payment withholding, or request for full or partial release of payments withheld, must be in writing, set out the reasons for the request, and be sent to the Department's Office of Inspector General at 2200 Churchill Road, A-1 404 North Fifth Street, Springfield, Illinois 6270262706, or by e-mail to HFS.OIGWebmaster@illinois.gov. The request may include documentation that the allegations of fraud or willful misrepresentation involving the Medical Assistance Program did not take place.
- e) Partial or full release of payments on pending and subsequently submitted bills may be granted, at the discretion of the Inspector General of the Department, when it is in the best interest of the recipients of medical assistance. This may include, but not be limited to, access to medical services for recipients or the potential movement of patients from long term care settings.

(Source: Amended at 42 Ill. Reg. 14383, effective July 23, 2018)

SUBPART C: PROVIDER ASSESSMENTS

Section 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund (Repealed)

- a) Purpose and Contents
 - 1) Effective June 30, 1992, the provider participation fee methodology created under subsection (b) of this Section terminates in accordance with Public Act 87-861. All other provisions of this Section remain in effect, including but not limited to, subsection (f) of this Section on penalties and subsection (1) of this Section on annual audit and reconciliation.
 - 2) The Funds were created in the State Treasury upon enactment of Public Act 87-13. Interest earned by the Funds shall be credited to the appropriate Fund. The Funds shall not be used to replace any funds appropriated to the Medicaid program by the General Assembly.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 3) ~~The Funds are created for the purpose of receiving and disbursing monies in accordance with this Section and Public Act 87-13.~~
- 4) ~~The Funds shall consist of:~~
 - A) ~~All monies collected or received by the Department under subsection (b) below;~~
 - B) ~~All federal matching funds received by the Department as a result of expenditures made by the Department that are attributable to monies deposited in the Funds;~~
 - C) ~~Any interest or penalty levied in conjunction with the administration of the Funds; and~~
 - D) ~~All other monies received for the Funds from any other source, including interest earned thereon.~~
- b) **Provider Participation Fees**

~~Beginning on July 1, 1991, a fee is imposed upon each facility in an amount equal to 15% of the facility's gross receipts for services provided for the previous State fiscal year as determined and reported by the Department.~~
- e) **Payment of Fees Due**
 - 1) ~~The fees described in subsection (b) above shall be due and payable on a calendar quarterly basis.~~
 - 2) ~~The fees shall be payable to and collected by the Department in quarterly amounts due and received by the Department at the address specified on the Provider Participation Fee Notice described in subsection (d) on the first business day of the first calendar quarter following the quarter for which the fee is being paid, with the exception of the initial payment which shall be due within thirty (30) days after the date of the Department's notification of the fee due. The subsequent quarterly amounts shall be due on January 1, April 1, July 1 and October 1 of each year. All monies collected under subsections (b) and (c) shall be deposited into the appropriate Fund. For facilities which sign an amendment to their~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~provider agreement stating they will be terminating operation at a specific point in time, the Department will make an adjustment in the fee based on a quarterly average public assistance occupancy level.~~

- 3) ~~All payments received by the Department shall be credited first to any interest or penalty, and then to the fee due.~~
- 4) ~~County nursing homes directed and maintained pursuant to Section 5-1005 of the Counties Code may meet their fee obligation by the county government certifying to the Department that county expenditures have been obligated for the operation of the county nursing home in an amount at least equal to the amount of the fee. County governments wishing to provide such certification must:~~
 - A) ~~Sign a certification form certifying that the funds represent expenditures eligible for federal financial participation under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), and that these funds are not federal funds, or are federal funds authorized by federal law to be used to match other federal funds;~~
 - B) ~~Submit the certification document to the Department once a year along with a copy of that portion of the county budget showing the funds appropriated for the operation of the county nursing home. These documents must be submitted within 30 days of the final approval of the county budget. However, for state fiscal year 1992, the county budgets covering the periods December 1, 1990 through November 30, 1991 and December 1, 1991 through November 30, 1992 must be submitted;~~
 - C) ~~Submit the monthly claim form in the amount of the rate established by the Department minus any third party liability amount. This amount will be reduced by one twelfth of the annual assessment amount prior to payment as a certification statement was provided in lieu of an actual assessment payment; and~~
 - D) ~~Make records available upon request to the Department and/or the United States Department of Health and Human Services pertaining to the certification of county funds.~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- d) **Notification**
~~The Department shall notify each facility of the results of its calculations under subsections (b) and (c) above. The notification shall be in writing and shall be submitted to the facility at least 30 days prior to the date on which the provider participation fee is due. Such calculations shall be subject to quarterly reconciliations as described in subsection (e) below and the annual audit/reconciliation described in subsection (1) below.~~
- e) **Procedure for Reconsideration and Quarterly Reconciliation**
- 1) **Reconsiderations.** ~~Upon notification of the results of the Department's calculations under subsections (b) and (c) above, each facility shall have the right to reconsideration of the calculation of its provider participation fee for that quarter. Only requests for reconsideration of the assessment calculation shall be considered during the quarterly reconciliation period. All appeals based on utilization/spending estimates shall be addressed during the annual audit/reconciliation described in subsection (k) below.~~
- A) ~~Requests for reconsideration must be received in writing within 30 calendar days of the date of the Department's notification of the fee due. The request shall be accompanied by written materials setting forth the grounds for reconsideration.~~
- B) ~~A facility shall be required to pay its provider participation fee amount for the time period in question. In the event that a request for reconsideration results in the need for an adjustment to the fee due for the subject quarter, such adjustment shall be made during the quarterly reconciliation for the subject quarter.~~
- 2) **Quarterly Reconciliation.** ~~A quarterly reconciliation shall be performed by the Department to make adjustments to the fees calculated by the Department under subsections (b) and (c) above. During the quarterly reconciliation, the Department shall consider all requests for reconsideration which are received in compliance with subsection (e)(1) above. The Department shall notify each facility of the results of the quarterly reconciliation. The notification shall be in writing and shall be submitted to the facility at least ten (10) working days prior to the date on which the subsequent provider participation fee is due. If, as a result of the reconciliation, the Department determines that the amount of the~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~reconsidered fee was incorrect, this notification shall include an adjustment to the amount of the provider participation fee which is next due, the facility shall be obligated to pay the amount shown on the reconciliation notification if that amount differs from the amount in the notification described in subsection (d).~~

f) Penalties

- 1) ~~Any facility that fails to pay the fee when due, or pays less than the full amount due as described in subsections (b) and (c) above, shall be assessed a penalty of ten (10%) percent of the delinquency or deficiency for each month, or fraction thereof, computed on the full amount of the delinquency or deficiency, which includes any penalty accrued and not paid, from the time the fee was due.~~
- 2) ~~Within five days from the due date, the Department will begin immediate recoupment actions against the delinquent facility by withholding the amount due from future payments. No payments will be made to the facility until the entire provider fee, including any penalties, is satisfied. Recoupment proceedings against the same facility two times in a fiscal year shall be cause for termination from the Program.~~
- 3) ~~If the facility is no longer doing business with the Department or the Department cannot recover the full amount due, including penalties and interest, within three months of the fee due date, the Department may begin legal action to recover the monies owed plus court costs.~~
- 4) ~~The Director of the Department of Public Aid is authorized to establish delayed payment schedules for individual facilities that are unable to make timely payments under this Section due to financial difficulties. The delayed payment provisions are described in subsections (g) and (h) below.~~

g) Delayed Payment—Groups of Facilities

~~The Director may establish delayed payment of fees and/or waive the payment of interest and penalties for groups of facilities when:~~

- 1) ~~the State delays payments to facilities due to problems related to state cash flow, or~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- ~~2) a cash flow bond pool's or any other group financing plans' requests from providers for loans are in excess of its scheduled proceeds such that a significant number of facilities will be unable to obtain a loan to pay the fee.~~
- h) ~~Delayed Payment—Individual Facilities~~
~~In addition to the provisions of subsection (g) above, the Director may waive or delay fees for individual facilities that are unable to make timely payments under this Section due to financial difficulties. No delayed payment arrangements shall extend beyond the last business day of the calendar quarter in which the provider participation fee was to have been received by the Department as described in subsection (c) above.~~
- 1) ~~Criteria. Delayed payment provisions may be instituted only under extraordinary circumstances to qualified facilities of medical assistance services. Delayed payment provisions shall be made only to qualified facilities who meet all of the following requirements:~~
- A) ~~the facility has experienced an emergency which necessitates institution of delayed payment provisions. Emergency in this instance is defined as a circumstance under which institution of the payment and penalty provisions described in subsections (c)(1), (c)(2), (f)(1), (f)(2) and (f)(3) above would impose severe and irreparable harm to the clients served. Circumstances which may create such emergencies include, but are not limited to, the following:~~
- i) ~~Department system errors (either automated system or clerical) which have precluded payments, or which have caused erroneous payments such that the facility's ability to provide further services to clients is severely impaired;~~
- ii) ~~cash flow problems encountered by a facility which are unrelated to Department technical system problems and which result in extensive financial problems to a facility adversely impacting on its ability to serve its clients.~~
- B) ~~the facility serves a significant number of clients under the Medical~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~Assistance Program. Significant in this instance means:~~

- ~~i) 85 percent or more of their residents must be eligible for public assistance;~~
 - ~~ii) for government-owned facilities, subsection (h)(1)(B)(i) may be waived if the cash flow criteria under subsection (h)(1)(A)(ii) is met; and~~
 - ~~iii) for providers who have filed for Chapter 11 bankruptcy, subsection (h)(1)(B)(i) may be waived if the cash flow criteria under subsection (h)(1)(A)(ii) is met.~~
- ~~C) the facility must file a Cash Position Statement which is based upon current assets, current liabilities and other data for a date which is less than sixty (60) days prior to the date of filing. Any liabilities payable to owners or related parties must not be reported as current liabilities on the Cash Position Statement. A deferral of assessment payments will be denied if any of the following criteria are met:~~
- ~~i) the ratio of current assets divided by current liabilities is greater than 2.0;~~
 - ~~ii) cash, short term investments and long term investments equal or exceed the total of accrued wages payable and the assessment payment. Long term investments which are unavailable for expenditure for current operations due to donor restrictions or contractual requirements will not be used in this calculation;~~
 - ~~iii) cash or other assets has been distributed during the previous 90 days to owners or related parties in an amount equal to or exceeding the assessment payment for dividends, salaries in excess of those allowable under Section 140.541 or payments for purchase of goods or services in excess of cost as defined in Section 140.537.~~
- ~~D) the facility, with the exception of government owned facilities,~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~must show evidence of denial of an application to borrow provider participation fee funds through a cash flow bond pool or financial institutions such as a commercial bank.~~

- ~~E)~~ the facility must sign an agreement with the Department which specifies the terms and conditions of the delayed payment provisions. The agreement shall contain the following provisions:
- ~~i)~~ specific reason(s) for institution of the delayed payment provisions;
 - ~~ii)~~ specific dates on which payments must be received and the amount of payment which must be received on each specific date described;
 - ~~iii)~~ the interest or a statement of interest waiver that shall be due from the facility as a result of institution of the delayed payment provisions;
 - ~~iv)~~ a certification stating that, should the entity be sold, the new owners will be made aware of the liability and any agreement selling the entity will include provisions that the new owners will assume responsibility for repaying the debt to the Department according to the original agreement;
 - ~~v)~~ a certification stating that all information submitted to the Department in support of the delayed payment request is true and accurate to the best of the signator's knowledge; and
 - ~~vi)~~ such other terms and conditions that may be required by the Department.
- 2) A facility which does not meet the above criteria may request a delayed payment schedule and/or the waiver of interest and penalties. The Director may approve the request, notwithstanding the facility not meeting the above criteria, upon a sufficient showing of financial difficulties and good cause by the facility. If the request for a delayed payment schedule and/or waiver of interest and penalties is approved, all other conditions of this

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~subsection (h) shall apply.~~

3) ~~Approval Process~~

~~A) In order to receive consideration for delayed payment provisions, facilities must submit their request in writing (telefax requests are acceptable) to the Bureau of Program and Reimbursement Analysis. The request must be received within ten (10) working days of the date of the Department's notification of the provider participation fee due for the subject quarter as described in subsection (c) above. Requests must be complete and contain all required information before they are considered to have met the time requirements for filing a delayed payment request. All telefax requests must be followed up with original written requests by certified mail postmarked no later than the date of the telefax. The request must include:~~

- ~~i) an explanation of the circumstances creating the need for the delayed payment provisions;~~
- ~~ii) supportive documentation to substantiate the emergency nature of the request and risk of irreparable harm to the clients; and~~
- ~~iii) specification of the specific arrangements requested by the facility.~~

~~B) The facility shall be notified by the Department, in writing, of the Department's decision with regard to the request for institution of delayed payment provisions. An agreement shall be issued to the facility for all approved requests. The agreement must be signed by the administrator, owner or other authorized representative and be received by the Department prior to the first scheduled payment date listed in such agreement.~~

4) ~~Waiver of Penalties. The penalties described in subsections (f)(1) and (f)(2) may be waived upon approval of the facility's request for institution of delayed payment provisions. In the event a facility's request for institution of delayed payment provisions is approved and the Department~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~has received the signed agreement in accordance with subsection (h)(3)(B) above, such penalties shall be permanently waived for the subject quarter unless the facility fails to meet the terms and conditions of the agreement. In the event the facility fails to meet the terms and conditions of the agreement, the agreement shall be considered null and void and such penalties shall be fully reinstated.~~

- 5) ~~Interest. The delayed payments shall include interest at a rate not to exceed the State of Illinois borrowing rate. The applicable interest rate shall be identified in the agreement described in subsection (h)(1)(E) above. The interest may be waived by the Director if the facility's current ratio, as described in subsection (h)(1)(C) above is 1.5 or less and the facility meets the criteria in (h)(1)(A) and (B). Any such waivers granted shall be expressly identified in the agreement described in subsection (h)(1)(E) above.~~
- 6) ~~Subsequent Delayed Payment Arrangements. Once a facility has requested and received approval for delayed payment arrangements, the facility shall not receive approval for subsequent delayed payment arrangements until such time as the terms and conditions of any current delayed payment agreement have been satisfied. The waiver of penalties described in subsection (h)(3) shall not apply to a facility that has not satisfied the terms and conditions of any current delayed payment agreement.~~
- i) ~~Disbursements from the Fund~~
- 1) ~~Disbursements from the Funds shall be made only:~~
- A) ~~for facility expenditures made under Title XIX of the Social Security Act;~~
 - B) ~~for the reimbursement of monies collected by the Department from facilities through error or mistake;~~
 - C) ~~for payment of administrative expenses incurred by the Department or its agent in performing the activities authorized by subsections (b), (c), (d), (e) and (f) above; and~~
 - D) ~~for payments of any amounts which are reimbursable to the federal~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~government for payments from these Funds which are required to be paid by State warrant. Disbursements from these Funds shall be by warrants drawn by the State Comptroller upon receipt of vouchers duly executed and certified by the Department.~~

- 2) ~~Disbursements from the Fund are conditional on:~~
 - A) ~~expiration of the time limitations for reconsiderations requested by facilities under subsection (e)(1) above; and~~
 - B) ~~the availability of sufficient monies in the Funds to make the payments required after the quarterly reconciliation determined under subsection (e)(2) above and the annual audit reconciliation determined under subsection (1) below.~~
- j) ~~Court Orders. If one or more facilities file suit in any court challenging any part of this Section, payments to facilities under this Section shall be made only to the extent that sufficient monies are available in the appropriate Fund and only to the extent that any monies in the Fund are not prohibited from disbursement under any order of the Court.~~
- k) ~~Federal Approval. Payments under the disbursement methodology described in this Section are subject to approval by the federal government in an appropriate State plan amendment. Fees under this Section are conditioned on the disbursement methodology being approved by the federal government in an appropriate State plan amendment.~~
- l) ~~Annual Audit/Reconciliation~~
 - 1) ~~The Department shall conduct an annual review and reconciliation of the provider participation fees paid by facilities within 9 months from the end of the State fiscal year in which the fee described in subsection (b) is due. The purpose of the reconciliation shall be to adjust the provider participation fees paid by a facility to reflect:~~
 - A) ~~the actual services provided by the facility to clients of the Medical Assistance Program during the period to which the provider participation fee relates; and~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- ~~B) the payments actually received by the facility related to those services during the period to which the provider participation fee relates.~~
- 2) ~~Where the estimated utilization of services or gross receipts as determined and utilized by the Department in the calculation of fees due under subsection (b) does not reflect the facility's actual utilization or actual gross receipts during the period to which the provider participation fee relates, the Department shall recalculate the facility's provider participation fee in accordance with subsection (b), using the facility's actual utilization and actual gross receipts for the period to which the provider participation fee relates.~~
- A) ~~If the recalculation indicates that the facility should have been required to pay, but did not pay, a higher provider participation fee based upon actual utilization, the facility shall be required to pay to the Fund within 60 days of the date of notification from the Department that monies are owed to the Department, the difference between the provider participation fee amount actually paid and the provider participation fee amount which should have been paid.~~
- B) ~~If the recalculation indicates that the facility paid a total provider participation fee during the twelve month period which exceeded that which the facility should have been required to pay based upon actual utilization, the Department shall refund within 60 days of the date of notification from the Department that monies are due the facility to the facility the difference between the amount the facility actually paid and the amount of the provider participation fee the facility should have paid.~~
- 3) ~~In no event shall the payments to a facility, less the fees paid by the facility under subsections (b) and (c) above, equal less than the payments from the facility's State fiscal year 1991 weighted average payment rates reduced by 5% unless current rates are lowered by the Inspection of Care survey or rates are reduced due to lowered costs as reported in the cost report used to calculate the current rate.~~
- 4) ~~Amounts recovered from a facility shall be credited to the appropriate Fund. A facility is entitled to recover amounts paid to the Department and~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~to receive refunds and payments from the Department under this Section only to the extent that monies are available in the appropriate Fund.~~

- 5) ~~Upon notification of the results of the Department's annual audit/reconciliation, each facility shall have the right to reconsideration of the results of such annual audit/reconciliation. Such requests for reconsideration must be received in writing within thirty (30) calendar days of the date of the Department's notification of the fee due. Such request shall include a clear explanation of the error and documentation of the desired correction. The Department shall notify the facility of the results of the review within 30 days of the receipt of all required review material. If the facility fails to request a reconsideration pursuant to this subsection, the Department's determination shall be final.~~

m) **Applicability**

~~The requirements of this Section shall apply only as long as federal funds under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) are available to match the fees collected and disbursed under this Section and only as long as reimbursable expenditures are matched at the Federal Medicaid percentage of at least 50 percent. Whenever the Department is informed that federal funds are not available for these purposes, or shall be available at a lower percentage, this Section shall no longer apply and the Department shall promptly refund to each facility the amount of money currently in the Funds that has been paid by the facility, plus any investment earnings on that amount.~~

n) **Definitions**

- 1) ~~"Actual gross receipts" means the gross receipts, as determined and reported by the Department, for services provided during the previous fiscal year which have been paid within nine (9) months from the end of such previous State fiscal year (for example, services provided in fiscal year 1991 and paid no later than March 31, 1992, for fees described in subsection (b) which are imposed in State fiscal year 1992; services provided in fiscal year 1992 and paid no later than March 31, 1993, for fees described in subsection (b) which are imposed in State fiscal year 1993; etc.).~~
- 2) ~~"Actual utilization" means the actual utilization of services provided during the State fiscal year in which the fee described in subsection (b) is~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~due and which have been paid within nine (9) months from the end of such State fiscal year (for example, services provided in fiscal year 1992 and paid no later than March 31, 1993 for fees imposed in State fiscal year 1992; services provided in fiscal year 1993 and paid no later than March 31, 1994 for fees imposed in State fiscal year 1993; etc.).~~

- 3) ~~"Estimated rate year utilization" means the facility's project utilization for the State fiscal year in which the fee described in subsection (b) is due (for example, fiscal year 1992 for fees imposed in State fiscal year 1992, fiscal year 1993 for fees imposed in State fiscal year 1993, etc.).~~
- 4) ~~"Facility" means a Medicaid-certified intermediate care facility for the developmentally disabled or intermediate care facility for the developmentally disabled of 16 beds or less, skilled or intermediate nursing facility, including county nursing homes directed and maintained pursuant to Section 5-1005 of the Counties Code, but shall not include state-operated facilities or campus facilities as defined in Section 140.583.~~
- 5) ~~"Fee" means a provider participation fee paid by facilities under this Section.~~
- 6) ~~"Fund" means the Medicaid Developmentally Disabled Provider Participation Fee Trust Fund and/or Medicaid Long Term Care Provider Participation Fee Trust Fund.~~
- 7) ~~"Gross Receipts" means all annualized payments for medical services delivered under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and Article V of the Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 5-1 et seq.) and shall mean any and all payments made by the Department, or a Division thereof, to a facility certified to participate in the Medical Assistance Program, for services rendered eligible for Medical Assistance under Article V of the Public Aid Code, State regulations and the federal Medicaid Program as defined in Title XIX of the Social Security Act and federal regulations.~~

(Source: Repealed at 42 Ill. Reg. 14383, effective July 23, 2018)

Section 140.95 Hospital Services Trust Fund (Repealed)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

a) ~~Purpose and Contents~~

- 1) ~~Effective June 30, 1992, the provider participation fee methodology created under subsections (b)(1), (2), and (3) of this Section terminates in accordance with Public Act 87-861. All other provisions of this Section remain in effect, including but not limited to subsection (f) on penalties and subsection (1) on annual audit and reconciliation.~~
- 2) ~~The Hospital Services Trust Fund ("Fund") was created in the State Treasury upon enactment of Public Act 87-13. Interest earned by the Fund shall be credited to the Fund. The Fund shall not be used to replace any funds appropriated to the Medicaid program by the General Assembly.~~
- 3) ~~The Fund is created for the purpose of receiving and disbursing monies in accordance with this Section.~~
- 4) ~~The Fund shall consist of:~~
 - A) ~~All monies collected or received by the Department under subsections (b)(1), (b)(2) and (b)(3) below;~~
 - B) ~~All federal matching funds received by the Illinois Department as a result of expenditures made by the Department that are attributable to monies deposited in the Fund;~~
 - C) ~~Any interest or penalty levied in conjunction with the administration of the Fund; and~~
 - D) ~~All other monies received for the Fund from any other source, including interest earned thereon.~~

b) ~~Provider Participation Fees~~

- 1) ~~Beginning on July 1, 1991 and ending on June 30, 1995, a fee is imposed upon each hospital in an amount equal to 50 percent of the positive difference between the hospital's anticipated annualized Medicaid spending, which shall be calculated using the estimated rate year utilization, for State fiscal year 1992 and each State fiscal year thereafter through State fiscal year 1995, excluding payments under 89 Ill. Adm.~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~Code 148.120 and Section 5-5.02 of the Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, par. 5-5.02), and the hospital's total Medicaid base year spending. This fee shall be adjusted pursuant to the annual audit described in subsection (1) below to reflect actual annualized Medicaid spending and actual rate year utilization.~~

- 2) ~~Beginning on July 1, 1991, and ending on June 30, 1995, a fee is imposed upon each hospital in an amount equal to 5 percent of the hospital's gross receipts for services provided during the previous State fiscal year as determined and reported by the Department. This fee shall be adjusted pursuant to the annual audit described in subsection (1) below to reflect actual Medicaid gross receipts for services provided during the previous State fiscal year.~~
- 3) ~~Beginning on July 1, 1991, and ending on June 30, 1995, a fee is imposed upon each hospital which receives critical care access payments under subsection (d) of Section 14-8 of the Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, par. 14-8). This fee is equal to fifty (50) percent of the critical care payments as calculated in accordance with 89 Ill. Adm. Code 148.120(k).~~

e) ~~Payment of Fees Due~~

- 1) ~~The fees described in subsection (b) above shall be due and payable on a calendar quarterly basis.~~
- 2) ~~The fees shall be payable to and collected by the Illinois Department in quarterly amounts due and received by the Department at the address specified on the Provider Participation Fee Notice described in subsection (d) on the first business day of the first calendar quarter following the quarter for which the fee is being paid, with the exception of the initial payment which shall be due on November 1, 1991. The subsequent quarterly amounts shall be due on January 1, April 1, July 1, and October 1 of each year with the final payment due on July 1, 1995. All monies collected under subsections (b) and (c) shall be deposited into the Fund.~~
- 3) ~~All payments received by the Department shall be credited first to any interest, second to any penalty, and then to the fee due.~~

d) ~~Notification~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~The Department shall notify each hospital of the results of its calculations under subsections (b) and (c) above. The notification shall be in writing and shall be submitted to the hospital at least thirty (30) days prior to the date on which the provider participation fee is due. Such calculations shall be subject to quarterly reconciliations as described in subsection (e) below and the annual audit/reconciliation described in subsection (1) below.~~

e) ~~Procedure for Reconsideration and Quarterly Reconciliation~~

- ~~1) Reconsiderations. Upon notification of the results of the Department's calculations under subsections (b) and (c) above, each hospital shall have the right to reconsideration of the calculation of its provider participation fee for that quarter. Only requests for reconsideration of the assessment calculation shall be considered during the quarterly reconciliation period. All appeals based on utilization/spending estimates shall be addressed during the annual audit/reconciliation described in subsection (1) below.~~
 - ~~A) Requests for reconsideration must be received in writing within 30 calendar days of the date of the Department's notification of the fee due. The request shall be accompanied by written materials setting forth the grounds for reconsideration.~~
 - ~~B) A hospital shall be required to pay its provider participation fee amount for the time period in question. In the event that a request for reconsideration results in the need for an adjustment to the fee due for the subject quarter, such adjustment shall be made during the quarterly reconciliation for the subject quarter.~~
- ~~2) Quarterly Reconciliation. A quarterly reconciliation shall be performed by the Department to make adjustments to the fees calculated by the Department under subsections (b) and (c) above. During the quarterly reconciliation, the Department shall consider all requests for reconsideration which are received in compliance with subsection (e)(1) above. The Department shall notify each hospital of the results of the quarterly reconciliation. The notification shall be in writing and shall be submitted to the hospital at least ten (10) working days prior to the date on which the subsequent provider participation fee is due. If, as a result of the reconciliation, the Department determines that the amount of the reconsidered fee was incorrect, the notification shall include an adjustment~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~to the amount of the provider participation fee which is next due. The facility shall be obligated to pay the amount shown on the reconciliation notification if that amount differs from the amount in the notification described in subsection (d).~~

f) ~~Penalties.~~

- ~~1) Any hospital that fails to pay the fee when due, or pays less than the full amount due as described in subsections (b) and (c) above, shall be assessed a penalty of ten (10) percent of the delinquency or deficiency for each month, or fraction thereof, computed on the full amount of the delinquency or deficiency, which includes any penalty accrued and not paid, from the time the fee was due.~~
- ~~2) Within five days from the due date, the Department will begin immediate recoupment actions against the delinquent provider by withholding the amount due from future payments. No payments will be made to the provider until the entire provider fee, including any penalties, is satisfied. Recoupment proceedings against the same provider two times in a fiscal year shall be cause for termination from the program.~~
- ~~3) If the provider is no longer doing business with the Department or the Department cannot recover the full amount due, including penalties and interest, within three months of the fee due date, the Department may begin legal action to recover monies owed plus court costs.~~
- ~~4) The Director of the Department of Public Aid may establish delayed payment schedules for individual facilities that are unable to make timely payments under this Section due to financial difficulties. The delayed payment provisions are described in subsections (g) and (h) below.~~

g) ~~Delayed Payment—Groups of Facilities~~

~~The Director may establish delayed payment of fees and/or waive the payment of interest and penalties for groups of hospitals such as disproportionate share hospitals or all other hospitals when:~~

- ~~1) the State delays payments to hospitals due to problems related to State cash flow, or~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) ~~a cash flow bond pool's, or any other group financing plans', requests from providers for loans are in excess of its scheduled proceeds such that a significant number of hospitals will be unable to obtain a loan to pay the fee.~~
- h) ~~Delayed Payment—Individual Facilities~~
~~In addition to the provisions of subsection (g) above, the Director may waive or delay fees for individual facilities that are unable to make timely payments under this Section due to financial difficulties. No delayed payment arrangements shall extend beyond the last business day of the calendar quarter in which the provider participation fee was to have been received by the Department as described in subsection (e) above.~~
- 1) ~~Criteria. Delayed payment provisions may be instituted only under extraordinary circumstances to qualified providers of medical assistance services. Delayed payment provisions may be made only to qualified hospitals that meet all of the following requirements:~~
- A) ~~the provider has experienced an emergency which necessitates institution of delayed payment provisions. Emergency in this instance is defined as a circumstance under which institution of the payment and penalty provisions described in subsections (e)(1), (e)(2), (f)(1) and (f)(2) above would impose severe and irreparable harm to the clients served. Circumstances which may create such emergencies include, but are not limited to, the following:~~
- i) ~~Department system errors (either automated system or clerical) which have precluded payments, or which have caused erroneous payments such that the provider's ability to provide further services to clients is severely impaired;~~
- ii) ~~cash flow problems encountered by a provider which are unrelated to Department technical system problems. These situations include cash flow problems which are unrelated to Department technical system problems and which result in extensive financial problems to a facility, adversely impacting on its ability to serve its clients.~~
- B) ~~the provider serves a significant number of clients under the~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~medical assistance program. Significant in this instance means:~~

- ~~i) that the hospital must qualify as a disproportionate share hospital under 89 Ill. Adm. Code 148.120 (a)(1) through 148.120 (a)(4).~~
 - ~~ii) for government owned facilities, subsection (h)(1)(B)(i) may be waived if the cash flow criteria under subsection (h)(1)(A)(ii) is met; and~~
 - ~~iii) for providers who have filed for Chapter 11 bankruptcy, subsection (h)(1)(B)(i) may be waived if the cash flow criteria under subsection (h)(1)(A)(ii) is met.~~
- ~~C) the provider must file a Cash Position Statement which is based upon current assets, current liabilities and other data for a date which is less than sixty (60) days prior to the date of filing. Any liabilities payable to owners or related parties must not be reported as current liabilities on the Cash Position Statement. A deferral of assessment payments will be denied if any of the following criteria are met:~~
- ~~i) the ratio of current assets divided by current liabilities is greater than 2.0.~~
 - ~~ii) cash, short term investments and long term investments equal or exceed the total of accrued wages payable and the assessment payment. Long term investments which are unavailable for expenditure for current operations due to donor restrictions or contractual requirements will not be used in this calculation.~~
- ~~D) the provider must show evidence of denial of an application to borrow provider participation fee funds through a cash flow bond pool or financial institution such as a commercial bank.~~
- ~~E) the provider must sign an agreement with the Department which specifies the terms and conditions of the delayed payment provisions. The agreement shall contain the following provisions:~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- i) ~~specific reason(s) for institution of the delayed payment provisions;~~
 - ii) ~~specific dates on which payments must be received and the amount of payment which must be received on each specific date described;~~
 - iii) ~~the interest or a statement of interest waiver that shall be due from the provider as a result of institution of the delayed payment provisions;~~
 - iv) ~~a certification stating that, should the entity be sold, the new owners will be made aware of the liability and any agreement selling the entity will include provisions that the new owner will assume responsibility for repaying the debt to the Department according to the original agreement; and~~
 - v) ~~a certification stating that all information submitted to the Department in support of the delayed payment request is true and accurate to the best of the signator's knowledge.~~
- 2) ~~A hospital which does not meet the above criteria may request a delayed payment schedule and/or the waiver of interest and penalties. The Director may approve the request, notwithstanding the hospital not meeting the above criteria, upon a sufficient showing of financial difficulties and good cause by the hospital. If the request for a delayed payment schedule and/or waiver of interest and penalties is approved, all other conditions of this subsection (h) shall apply.~~
- 3) ~~Approval Process.~~
- A) ~~In order to receive consideration for delayed payment provisions, providers must submit their request in writing (telefax requests are acceptable) to the Bureau of Program and Reimbursement Analysis. The request must be received within ten (10) working days of the date of the Department's notification of the provider participation fee due for the subject quarter as described in subsection (c) above. Requests must be complete and contain all~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~required information before they are considered to have met the time requirements for filing a delayed payment request. All telefax requests must be followed up with original written requests by certified mail, postmarked no later than the date of the telefax. The request must include:~~

- ~~i) an explanation of the circumstances creating the need for the delayed payment provisions;~~
- ~~ii) supportive documentation to substantiate the emergency nature of the request and risk of irreparable harm to the clients; and~~
- ~~iii) specification of the specific arrangements requested by the provider.~~

~~B) The hospital shall be notified by the Department, in writing, of the Department's decision with regard to the request for institution of delayed payment provisions. An agreement shall be issued to the provider for all approved requests. The agreement must be signed by the administrator, owner, chief executive officer or other authorized representative and be received by the Department prior to the first scheduled payment date listed in such agreement.~~

- ~~4) Waiver of Penalties. The penalties described in subsections (f)(1) and (f)(2) may be waived upon approval of the provider's request for institution of delayed payment provisions. In the event a provider's request for institution of delayed payment provisions is approved and the Department has received the signed agreement in accordance with subsection (h)(3)(B) above, such penalties shall be permanently waived for the subject quarter unless the provider fails to meet on the terms and conditions of the agreement. In the event the provider fails to meet on the terms and conditions of the agreement, the agreement shall be considered null and void and such penalties shall be fully reinstated.~~
- ~~5) Interest. The delayed payments shall include interest at a rate not to exceed the State of Illinois borrowing rate. The applicable interest rate shall be identified in the agreement described in subsection (h)(1)(E) above. The interest may be waived by the Director if the facility's current~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~ratio, as described in subsection (h)(1)(C) above is 1.5 or less and the hospital meets the criteria in (h)(1)(A) and (B). Any such waivers granted shall be expressly identified in the agreement described in subsection (h)(1)(D) above.~~

- ~~6) Subsequent Delayed Payment Arrangements. Once a provider has requested and received approval for delayed payment arrangements, the provider shall not receive approval for subsequent delayed payment arrangements until such time as the terms and conditions of any current delayed payment agreement have been satisfied. The waiver of penalties described in subsection (h)(3) shall not apply to a provider that has not satisfied the terms and conditions of any current delayed payment agreement.~~

~~i) Disbursements from the Fund~~

~~1) Disbursements from the Fund shall be made only:~~

- ~~A) for hospital inpatient, hospital ambulatory care, and disproportionate share distributive expenditures made under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);~~
- ~~B) for the reimbursement of monies collected by the Department from hospitals through error or mistake;~~
- ~~C) for payment of administrative expenses incurred by the Department or its agent in performing the activities authorized by subsections (b), (c), (d), (e) and (f) above; and~~
- ~~D) for payments of any amounts which are reimbursable to the federal government for payments from this Fund which are required to be paid by State warrant. Disbursements from this Fund shall be by warrants drawn by the State Comptroller upon receipt of vouchers duly executed and certified by the Department.~~

~~2) Disbursements from the Fund are conditional on:~~

- ~~A) expiration of the time limitations for reconsiderations requested by hospitals under subsection (e)(1) above.~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- ~~B) the availability of sufficient monies in the Fund to make the payments required by Section 14-8 of the Public Aid Code after the quarterly reconciliation determined under subsection (e)(2) above, and the annual audit reconciliation determined under subsection (1) below.~~
- j) ~~Court Orders~~
~~If one or more hospitals file suit in any court challenging any part of this Section, payments to hospitals under this Section shall be made only to the extent that sufficient monies are available in the Fund and only to the extent that any monies in the Fund are not prohibited from disbursement under any order of the court.~~
- k) ~~Federal Approval~~
~~Payments under the disbursement methodology described in Section 14-8 of the Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, par. 14-8) are subject to approval by the federal government in an appropriate State plan amendment. Fees under this Section are conditioned on the disbursement methodology described in Section 14-8 of the Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, par. 14-8) being approved by the federal government in an appropriate State plan amendment.~~
- l) ~~Annual Audit/Reconciliation~~
- 1) ~~The Department shall conduct an annual review and reconciliation of the provider participation fees paid by hospitals. The purpose of the reconciliation shall be to adjust the provider participation fees paid by a hospital to reflect:~~
- ~~A) the actual services provided by the hospital to recipients of the Medical Assistance Program, and~~
- ~~B) the payments actually received by the hospital related to those services during the period to which the provider participation fee relates.~~
- 2) ~~Where the estimated rate year utilization, anticipated annualized Medicaid spending or gross receipts as determined and utilized by the Department in the calculation of fees due under subsections (b)(1) and (b)(2) do not reflect the hospital's actual rate year utilization, actual annualized~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~Medicaid spending or actual gross receipts during the period to which the provider participation fee relates, the Department shall recalculate the hospital's provider participation fee in accordance with subsection (b), utilizing the hospital's actual rate year utilization, actual annualized Medicaid spending and actual gross receipts for the period to which the provider participation fee relates.~~

- A) ~~If the recalculation indicates that the hospital should have been required to pay, but did not pay, a higher provider participation fee based upon actual rate year utilization, actual annualized Medicaid spending or actual gross receipts during the period to which the provider participation fee relates, the hospital shall be required to pay to the Fund, within 60 days of the date of notification from the Department that monies are owed to the Department, the difference between the provider participation fee amount actually paid and the provider participation fee amount which should have been paid.~~
- B) ~~If the recalculation indicates that the hospital paid a total provider participation fee during the twelve month period which exceeded that which the hospital should have been required to pay based upon actual rate year utilization, actual annualized spending or actual gross receipts during the period to which the provider participation fee relates, the Department shall refund within 60 days of the date of notification from the Department that monies are due to the hospital, the difference between the amount the hospital actually paid and the amount of the provider participation fee the hospital should have paid.~~
- 3) ~~In no event shall the payments to a hospital, less the fees paid by the hospital under subsections (b) and (c) above, equal less than the payments from the hospital's State fiscal year 1991 weighted average payment rates reduced by 5 percent.~~
- 4) ~~Amounts recovered from a hospital shall be credited to the Fund. A hospital is entitled to recover amounts paid to the Department and to receive refunds and payments from the Department under this Section only to the extent that monies are available in the Fund.~~
- 5) ~~Upon notification of the results of the Department's annual~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~audit/reconciliation, each hospital shall have the right to reconsideration of the results of such annual audit/reconciliation. Such requests for reconsideration must be received in writing within thirty (30) calendar days of the date of the Department's notification of the fee due. Such request shall include a clear explanation of the error and documentation of the desired correction. The Department shall notify the hospital of the results of the review within 30 days of the receipt of all required review material. If the hospital fails to request a reconsideration pursuant to this subsection, the Department's determination shall be final.~~

m) ~~Applicability~~

~~The requirements of this Section shall apply only as long as federal funds under Title XIX of the Social Security Act are available to match the fees collected and disbursed under this Section and only as long as reimbursable expenditures are matched at the Federal Medicaid percentage of at least 50 percent. Whenever the Department is informed that federal funds are not available for these purposes, or shall be available at a lower percentage, this Section shall no longer apply, and the Department shall promptly refund to each hospital the amount of money currently in the Fund that has been paid by the hospital, plus any investment earnings on that amount.~~

n) ~~Definitions~~

~~As used in this Section, unless the context requires otherwise:~~

- ~~1) "Actual annualized Medicaid spending" means the actual expenditures made by the Department for services provided during the State fiscal year in which the fee described in subsection (b)(1) is due and which have been paid within nine (9) months from the end of such State fiscal year (for example, services provided in fiscal year 1992 and paid no later than March 31, 1993, for fees imposed in State fiscal year 1992; services provided in fiscal year 1993 and paid no later than March 31, 1994, for fees imposed in State fiscal year 1993; etc.). Such expenditures shall not include disproportionate share payments, targeted access payments, critical care access payments or uncompensated care payments.~~
- ~~2) "Actual gross receipts" means the gross receipts, as determined and reported by the Department, for services provided during the previous fiscal year which have been paid within nine (9) months from the end of such previous State fiscal year (for example, services provided in fiscal~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~year 1991 and paid no later than March 31, 1992, for fees described in subsection (b)(2) which are imposed in State fiscal year 1992; services provided in fiscal year 1992 and paid no later than March 31, 1993, for fees described in subsection (b)(2) which are imposed in State fiscal 1993; etc.).~~

- 3) ~~"Actual rate year utilization" means the actual utilization of services provided during the State fiscal year in which the fee described in subsection (b)(1) is due and which have been paid within nine (9) months from the end of such State fiscal year (for example, services provided in fiscal year 1992 and paid no later than March 31, 1993, for fees imposed in State fiscal year 1992; services provided in fiscal year 1993 and paid no later than March 31, 1994, for fees imposed in State fiscal year 1993; etc.).~~
- 4) ~~"Anticipated annualized Medicaid spending" means the Department's estimate of expenditures which will be made to the hospital for services provided in the State fiscal year in which the fee described in subsection (b)(1) is due (for example, fiscal year 1992 for fees imposed in State fiscal year 1992, fiscal year 1993 for fees imposed in State fiscal year 1993, etc.). Such expenditures shall not include disproportionate share payments, targeted access payments, critical care access payments or uncompensated care payments.~~
- 5) ~~"Estimated rate year utilization" means the hospital's projected utilization for the State fiscal year in which the fee described in subsection (b)(1) is due (for example, fiscal year 1992 for fees imposed in State fiscal year 1992, fiscal year 1993 for fees imposed in State fiscal year 1993, etc.).~~
- 6) ~~"Fund" means the Hospital Services Trust Fund.~~
- 7) ~~"Gross Receipts" means all payments for medical services delivered under Title XIX of the Social Security Act and Articles V, VI and VII of the Public Aid Code and shall mean any and all payments made by the Department, or a Division thereof, to a Medical Assistance Program provider certified to participate in the Illinois Medical Assistance Program, for services rendered eligible for Medical Assistance under Articles V, VI and VII of the Public Aid Code, State regulations and the federal Medicaid Program as defined in Title XIX of the Social Security Act and federal regulations.~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 8) ~~"Hospital" means any institution, place, building, or agency, public or private, whether organized for profit or not for profit, which is located in the State and is subject to licensure by the Illinois Department of Public Health under the Hospital Licensing Act or any institution, place, building, or agency, public or private, whether organized for profit or not for profit, which meets all comparable conditions and requirements of the Hospital Licensing Act in effect for the state in which it is located, and is required to submit cost reports to the Department under 89 Ill. Adm. Code 148, but shall not include the University of Illinois Hospital Act or a county hospital in a county of over 3 million population.~~
- 9) ~~"Total Medicaid Base Year Spending" means the hospital's State fiscal year 1991 weighted average payment rates, excluding payments made under 89 Ill. Adm. Code 148.120 and Section 5-5.02 of the Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, par. 5-5.02), reduced by 5 percent and multiplied by the hospital's estimated rate year utilization.~~
- 10) ~~"Weighted Average Payment Rate" means the hospital's payment rates for specific services, divided by the hospital's utilization for those specific services, plus any disproportionate share and outlier adjustments and less any third party liability payments.~~
- ⊖) Fee Assurances
- 1) Notwithstanding any provision of any rule of the Illinois Department of Public Aid, if either of the following events occurs:
- A) ~~Federal funds under Title XIX of the Social Security Act are no longer available to match the fees collected and disbursed under Section 14-3 of the Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, par. 14-3) or the State's expenditures are matched at a Federal Medicaid percentage of less than 50%; or~~
- B) ~~The State Plan amendment, in substantially the form submitted to the Health Care Financing Administration ("HCFA") prior to October 1, 1991, implementing the disbursement methodology set forth in Section 14-8 of the Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, par. 14-8) is disapproved by HCFA.~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) ~~Then the Department shall:~~
- A) ~~Make payments to hospitals in an amount commensurate with the payment rates that would have been paid pursuant to Section 14-8 of the Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, par. 14-8), the proposed State Plan amendment, and rules implementing such Section for services provided to Medicaid recipients during the period for which fees have been collected under Section 14-3 of the Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, par. 14-3) (fees due on the first business day of one quarter are considered collected for the previous quarter pursuant to subsection (c)(2) above); or~~
 - B) ~~If the Department cannot make payments at the level described in subsection (2)(A) above, refund to the hospital the hospital's fee, or portion thereof, which has not been recouped by the hospital through the payment rates as described in subsection (2)(A) above. The difference between the actual payments made to the hospital and the payments that would have been made to the hospital based on the hospital's total Medicaid base year spending shall be considered the amount of the fee recouped by the hospital.~~

(Source: Repealed at 42 Ill. Reg. 14383, effective July 23, 2018)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Universal Life Insurance
- 2) Code Citation: 50 Ill. Adm. Code 1411
- 3) Section Number: 1411.30 Adopted Action: Amendment
- 4) Statutory Authority: Implementing Sections 149 and 223 through 231.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/149, 223 through 231.1 and 401].
- 5) Effective Date of Rule: July 23, 2018
- 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 principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 1086; January 19, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version:

1411.30(a), in the last 3 lines, changed "less subsection (a)(1)(C) and less subsection (a)(1)(D), where reserves by the net level premium method shall be equal to ((A)-(B))r where (A), (B) and "r" are as defined in subsections (a)(1)(A) and (a)(1)(B)" to "less the quantity (C) and less the quantity (D), where reserves by the net level premium method shall be equal to ((A)-(B))r, where the quantities (A), (B), (C), (D), and "r" are as defined, respectively, in subsections (a)(1), (a)(2), (a)(3), (a)(4), and (a)(2)(D)".

1411.30(a)(3), fifth line, changed "(a)(1)(B) of this Section" to "(a)(2)(B)".

1411.30(a)(4), second line, changed "(a)(1)(C)" to "(a)(3)"; fourth line, changed "(a)(1)(C)" to "(a)(3)".

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

In lines 111 and 119, changed "(a)(1)(B)" to "(a)(2)".

- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 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 terminates Part 1411's applicability to life insurance policies issued on or after January 1, 2017 to avoid a statutory conflict. 215 ILCS 5/223 was recently amended to establish the NAIC Valuation Manual as the source for valuation standards effective January 1, 2017. Valuation standards will be maintained in the Valuation Manual for universal life insurance policies and group certificates issued from that date onward. Part 1411 provides valuation standards of its own for policies and group certificates of universal life insurance, so it needed to be amended to cease applicability to policies issued from January 1, 2017 onward while continuing to provide standards for policies not covered by the Valuation Manual.
- 16) Information and questions regarding this adopted rule shall be directed to:

Bruce Sartain, Life Actuary
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/785-0903

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCEPART 1411
UNIVERSAL LIFE INSURANCE

Section

1411.10	Purpose and Applicability
1411.20	Definitions
1411.30	Valuation
1411.40	Nonforfeiture
1411.50	Policy and Group Certificate Requirements and Disclosures
1411.60	Annual Report to Individual Policyowner or Group Certificateholder

AUTHORITY: Implementing Sections 149 and 223 through 231.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/149, 223 through 231.1 and 401].

SOURCE: Adopted at 28 Ill. Reg. 906, effective January 1, 2004; amended at 42 Ill. Reg. 14435, effective July 23, 2018.

Section 1411.30 Valuation

- a) Requirements
- The minimum valuation standard for individual and group universal life insurance policies shall be the Commissioners Reserve Valuation Method, as described in this Section for ~~those such~~ policies, and the tables and interest rates specified in this Section. The terminal reserve for the basic policy or group certificate and any benefits and/or riders for which premiums are not paid separately as of any policy or group certificate anniversary shall be equal to the net level premium reserves less ~~the quantity subsection (a)(1)(C) and less the quantity subsection (a)(1)(D) of this Section,~~ where reserves by the net level premium method shall be equal to $((A)-(B))r$, where ~~the quantities (A), (B), (C), (D), and "r" are as defined,~~ respectively, in subsections (a)(1), ~~(A)~~ (a)(2), (a)(3), (a)(4), and (a)(2)(D) ~~of this Section:~~
- 1) (A) is the present value of all future guaranteed benefits at the date of valuation.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

- 2) (B) is the quantity $(PVFB)_{(a_{x+t})}/a_x$
- A) Where PVFB is the present value of all benefits guaranteed at issue assuming future guaranteed maturity premiums are paid by the policyowner or group certificateholder and taking into account all guarantees contained in the policy or declared by the insurer.
- B) a_x and a_{x+t} are present values of an annuity of 1 per year payable on policy or group certificate anniversaries beginning at ages x and $x+t$, respectively, and continuing until the highest attained age at which a premium may be paid under the policy. The letter " x " is defined as the issue age and the letter " t " is defined as the duration of the policy or group certificate.
- C) The guaranteed maturity premium for flexible premium universal life insurance policies shall be that level gross premium, paid at issue and periodically thereafter over the period during which premiums are allowed to be paid, which will mature the policy or group certificate on the latest maturity date, if any, permitted under the policy or group certificate (otherwise at the highest age in the valuation mortality table), for an amount that is in accordance with the policy or group certificate structure. (The maturity amount shall be the initial death benefit where the death benefit is level over the lifetime of the policy or group certificate except for the existence of a minimum-death-benefit corridor, or shall be the specified amount where the death benefit equals a specified amount plus the policy value or cash surrender value except for the existence of a minimum-death-benefit corridor.) The guaranteed maturity premium is calculated at issue based on all policy guarantees at issue (excluding guarantees linked to an external referent). The guaranteed maturity premium for fixed premium universal life insurance policies shall be the premium defined in the policy or group certificate that at issue provides the minimum policy or group certificate guarantees. (The guaranteed maturity premium for both flexible and fixed premium policies shall be adjusted for death benefit corridors provided by the policy. The guaranteed maturity premium may be less than the premium necessary to pay all charges. This can especially happen in the first

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

year for policies or group certificates with large first year expense charges.)

- D) The letter "r" is equal to 1, unless the policy is a flexible premium policy and the policy value is less than the guaranteed maturity fund, in which case "r" is the ratio of the policy value to the guaranteed maturity fund.
- E) The guaranteed maturity fund at any duration is that amount which, together with future guaranteed maturity premiums, will mature the policy or group certificate based on all policy or group certificate guarantees at issue.
- 3) (C) is the quantity $((a)-(b))(a_{x+t})(r)/a_x$ where (a)-(b) is as described in Section 223 of the Code for the plan of insurance defined at issue by the guaranteed maturity premiums and all guarantees contained in the policy or group certificate or declared by the insurer. a_{x+t} and a_x are defined in subsection (a)(~~2~~)(B) of this Section.
- 4) (D) is the sum of any additional quantities analogous to subsection (a)(~~3~~)(C) of this Section that arise because of structural changes in the policy or group certificate, with each such quantity being determined on a basis consistent with that of subsection (a)(~~3~~)(C) using the maturity date in effect at the time of the change. (Structural changes are those changes which are separate from the automatic workings of the policy or group certificate. ~~These such~~ changes usually would be initiated by the policyholder or group certificateholder and include changes in the guaranteed benefits, changes in latest maturity date, or changes in allowable premium payment period. For fixed premium universal life policies with redetermination of all credits and charges no more frequently than annually, on policy or group certificate anniversaries, structural changes also include changes in guaranteed benefits, or in fixed premiums, unanticipated by the guaranteed maturity premium for ~~thesesuch~~ policies or group certificates at the date of issue, even if ~~thesuch~~ changes arise from automatic workings of the policy or group certificate. The recomputation of subsection (a)(~~2~~)(B) of this Section, for fixed premium universal life structural changes, shall exclude from PVFB, the present value of future guaranteed benefits, those guaranteed benefits which are funded by the excess of the insurer's declared guarantees of interest, mortality and

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

expenses, over the guarantees contained in the policy or group certificate at the date of issue.)

- 5) The guaranteed maturity premium, the guaranteed maturity fund and subsection (a)(21)(B) of this Section shall be recalculated to reflect any structural changes in the policy or group certificate. This recalculation shall be done in a manner consistent with the descriptions in subsections (a)(1) through (4) above.
 - 6) Future guaranteed benefits are determined by:
 - A) Projecting the greater of the guaranteed maturity fund and the policy value, taking into account future guaranteed maturity premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or group certificate or declared by the insurer; and
 - B) Taking into account any benefits guaranteed in the policy or group certificate or by declaration that do not depend on the policy value.
 - 7) All present values shall be determined using:
 - A) An interest rate (or rates) specified by Section 223 of the Code for policies or group certificates issued in the same year;
 - B) The mortality rates specified by Section 223 for policies or group certificates issued in the same year or contained in such other table as may be approved by the Director for this purpose; and
 - C) Any other tables needed to value supplementary benefits provided by a rider ~~that~~ which is being valued together with the policy or group certificate.
- b) Alternative Minimum Reserves
- 1) If, in any policy year, the guaranteed maturity premium on any universal life insurance policy is less than the valuation net premium for ~~that such~~ policy or group certificate, calculated by the valuation method actually used in calculating the reserve thereon but using the minimum valuation

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

standards of mortality and rate of interest, the minimum reserve required for ~~thesuch~~ contract shall be the greater of subsection (b)(1)(A) or (b)(1)(B) ~~of this Section~~.

- A) The reserve calculated according to the method, the mortality table, and the rate of interest actually used.
 - B) The reserve calculated according to the method actually used but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the guaranteed maturity premium in each policy year for which the valuation net premium exceeds the guaranteed maturity premium.
- 2) For universal life insurance reserves on a net level premium basis, the valuation net premium is $PVFB/a_x$ and, for reserves on a Commissioners Reserve Valuation Method, the valuation net premium is $(PVFB/a_x) + ((a) - (b))/a_x$.
- c) This Section does not apply to policies or certificates issued on or after January 1, 2017.

(Source: Amended at 42 Ill. Reg. 14435, effective July 23, 2018)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Procedures for Issuing Loans From the Water Pollution Control Loan Program
- 2) Code Citation: 35 Ill. Adm. Code 365
- 3) Section Number: 365.250 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Section 19.1 through 19.9 of the Environmental Protection Act, 415 ILCS 5/19.1 through 19.9.
- 5) Effective Date of Rule: July 20, 2018
- 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 is on file in the Illinois Environmental Protection Agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276, Springfield IL, 62794-9276, and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 7272; April 20, 2018
- 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 agreements issued by JCAR? No changes were requested.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Agency amends the additional subsidization requirements for the water pollution control loan program to match recent amendments to the Clean Water Act. Pub.Law 114-322. This amendment expands the types of subsidies and types of eligible recipients. The amendments also broaden the affordability criteria

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

by removing the requirement that the public loan applicant have a median household income less than the state average.

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

Joanne Olson
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 365
PROCEDURES FOR ISSUING LOANS FROM THE WATER
POLLUTION CONTROL LOAN PROGRAM

SUBPART A: INTRODUCTION

Section	
365.105	Purpose
365.110	Definitions
365.120	Administration
365.130	Projects and Activities Available for Assistance
365.140	Types of Assistance
365.150	Other Federal Requirements
365.160	Application Process
365.170	Waiver of Procedures

SUBPART B: FINANCING TERMS

Section	
365.210	Fixed Loan Rate
365.220	Loan Repayment Period
365.240	Restructuring
365.250	Additional Subsidization Principal Forgiveness
365.260	Limitations on Loan Assistance

SUBPART C: LOAN APPLICATION PROCESS

Section	
365.310	Funding Nomination Form
365.320	Project Plan
365.330	State Environmental Review
365.340	Project Priority List
365.350	Securing the Loan Agreement

SUBPART D: LOAN ISSUANCE, AUDITING, AND RECORDKEEPING

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

Section

365.410	Loan Issuance
365.420	Post-Loan Issuance Construction Contract Requirements
365.430	Loan Eligible Costs
365.440	Disbursement of Loan Funds
365.450	Initiation of Loan Repayment
365.460	Loan Closing and Issuance of Final Loan Amendment
365.470	Ongoing Auditing and Monitoring of Financial Capability

SUBPART E: DELINQUENT LOAN REPAYMENTS AND NONCOMPLIANCE

Section

365.510	Delinquent Loan Repayments
365.520	Noncompliance with Loan Procedures
365.530	Stop-Work Order
365.540	Termination

SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

Section

365.610	Requirements for Subagreements
365.620	Construction Contracts
365.630	Contracts for Personal and Professional Services
365.640	Compliance with Procurement Requirements for Construction Contracts
365.650	Disputes
365.660	Indemnity
365.670	Covenant Against Contingent Fees

AUTHORITY: Implementing and authorized by Sections 19.1 through 19.9 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.9].

SOURCE: Adopted at 13 Ill. Reg. 7351, effective May 1, 1989; amended at 16 Ill. Reg. 15073, effective September 21, 1992; recodified at 19 Ill. Reg. 11450, effective August 11, 1995; amended at 20 Ill. Reg. 788, effective January 1, 1996; amended at 30 Ill. Reg. 15590, effective September 18, 2006; emergency amendment at 33 Ill. Reg. 8546, effective June 2, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 15450, effective October 28, 2009; emergency amendment at 34 Ill. Reg. 8325, effective June 10, 2010, for a maximum of 150 days; emergency expired November 6, 2010; amended at 34 Ill. Reg. 17582, effective November 8, 2010;

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

amended at 40 Ill. Reg. 6577, effective April, 2016; former Part repealed at 41 Ill. Reg. 7980 and new Part adopted at 41 Ill. Reg. 7983, effective July 1, 2017; amended at 42 Ill. Reg. 14442, effective July 20, 2018.

SUBPART B: FINANCING TERMS

Section 365.250 Additional Subsidization~~Principal Forgiveness~~

- a) The Agency may provide additional subsidization as provided in section 603(i) of the CWA or as otherwise prescribed by USEPA in the annual capitalization grant agreement.~~When the Agency provides assistance to a public loan recipient, the Agency shall, until the available principal forgiveness funding established in the Capitalization Grant is exhausted, provide additional subsidization in the form of principal forgiveness to a public loan recipient to finance a project or activity eligible for assistance under 33 USC 1383(c)(1) that meets the affordability criteria of subsection (b).~~
- b) Pursuant to section 603(i)(2) of the CWA, the Agency adopts the following affordability criteria.~~Affordability Criteria:~~
 - 1) To be eligible for additional subsidization under section 603(i)(1)(A)(i) of the CWA, a public loan recipient must~~In order to qualify for principal forgiveness under subsection (a), a public loan recipient must meet the following requirements:~~
 - A) have a~~A~~ service population of 30,000 or less, unless the loan applicant's median household income (MHI) is 70% or less, of the statewide average; and
 - B) The MHI of the public loan applicant's service population is less than or equal to the statewide MHI; and
 - B~~C~~) score~~Score~~ at least 21 points based on the following criteria:
 - i) Median Household Income

Points	MHI as % of Statewide MHI
0	Above 100%

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

5	95-99.99%
10	90-94.99%
15	85-89.99%
20	80-84.99%
25	75-79.99%
30	70-74.99%
35	65-69.99%
40	60-64.99%
45	55-59.99%
50	50-54.99%
55	45-49.99%
60	0-44.99%

ii) Population

Points	Service Population
<u>0</u>	<u>Above 30,000</u>
5	20,000-30,000
10	15,000-19,999
15	10,000-14,999
20	5,000-9,999
25	2,000-4,999
30	1,000-1,999
35	0-999

iii) Additional Criteria

Points	Additional Criteria
1	Unemployment rate is greater than the statewide average

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

	unemployment rate by one percentage point or more
4	Decrease in service population greater than 5.0% in the last 5 years from the date of the loan application

- 2) The amount of additional subsidization provided~~principal forgiveness~~ under section 603(i)(1)(A)(i) of the CWA~~subsection (a)~~ will be capped for qualifying public loan recipients and applied only to eligible projects costs as follows:

Points	Percent
0-20	0%
21-40	up to 15%
41-60	up to 30%
61-80	up to 45%
81-100	up to 60%

- c) Notwithstanding the additional subsidization~~principal forgiveness~~ caps in subsection (b)(2), the Agency may establish a base cap applicable to each public loan recipient within its Intended Use Plan each year. The base cap shall be the same amount for each public loan recipient receiving additional subsidization~~principal forgiveness~~. In determining the base cap, the Agency must consider the following factors:

- 1) the amount of federal appropriation allocated to the Agency for additional subsidization~~principal forgiveness~~;
- 2) the number of qualifying public loan recipients;
- 3) the availability of equity in the State Water Revolving Fund while ensuring the fund operates in perpetuity; and
- 4) requirements established by USEPA.

- d) The Agency shall prioritize public loan applicants who score at least 21 points under the affordability criteria in subsection (b), and shall award additional

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

~~subsidization~~~~principal forgiveness~~ to loan applicants in the order that loan applicants have been issued a loan by the Agency pursuant to Section 365.410.

(Source: Amended at 42 Ill. Reg. 14442, effective July 20, 2018)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Certificates of Title, Registration of Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 1010
- 3) Section Number: 1010.245 Adopted Action:
Amendment
- 4) Statutory Authority: Authorized by Section 2-104(b) of, and implementing Chapters 3 and 5 of, the Illinois Vehicle Code [625 ILCS 5].
- 5) Effective Date of Rule: July 23, 2018
- 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*: 42 Ill. Reg. 4497; March 9, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Upon filing of 2nd Notice, SOS added to subsection 1010.145 (f) specific details about the ability in January 2013 to register online through our website. In subsection (g), SOS added "franchised new" and website information to be consistent with subsection (f) .
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were issued.
- 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: Amends and updates information relating to the requirements related to a used dealer's requirement to use electronic registration and title.
- 16) Information and questions regarding this adopted rule shall be directed to:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

Secretary of State
Gina Harrison, Legal Advisor
100 W. Randolph, #5-400
Chicago IL 60601

312/814-7246

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1010
CERTIFICATES OF TITLE, REGISTRATION OF VEHICLES

SUBPART A: DEFINITIONS

Section	
1010.10	Owner – Application of Term
1010.20	Secretary and Department

SUBPART B: TITLES

Section	
1010.110	Salvage Certificate – Additional Information Required to Accompany Application for a Certificate of Title for a Rebuilt or a Restored Vehicle Upon Surrendering Salvage Certificate
1010.120	Salvage Certificate – Assignments and Reassignments
1010.130	Exclusiveness of Lien on Certificate of Title
1010.140	Documents Required to Title and Register Imported Vehicles Not Manufactured in Conformity with Federal Emission or Safety Standards
1010.150	Transferring Certificates of Title Upon the Owner's Death
1010.160	Repossession of Vehicles by Lienholders and Creditors
1010.170	Junking Notification
1010.180	Specially Constructed Vehicles – Defined
1010.185	Specially Constructed Vehicles – Required Documentation for Title and Registration
1010.190	Issuance of Title and Registration Without Standard Ownership Documents – Bond
1010.193	Procedures for Application for Title for Vehicles Purchased at Mechanic's Lien Sales
1010.195	Procedures and Disclosures for Vehicles Previously Titled in Areas Flooded as a Result of a Natural Disaster

SUBPART C: REGISTRATION

Section	
1010.200	Homemade Trailers – Title and Registration

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- 1010.210 Application for Registration
- 1010.220 Vehicles Subject to Registration – Exceptions
- 1010.230 Refusing Registration or Certificate of Title
- 1010.240 Registration Plates To Be Furnished by the Secretary of State
- 1010.245 Electronic Registration and Titling (ERT) Program Provisions
- 1010.250 Applications For Reassignment

SUBPART D: REVOCATION, SUSPENSION AND
CANCELLATION OF REGISTRATION

Section

- 1010.300 Operation of Vehicle after Cancellation, Suspension, or Revocation of any Registration
- 1010.310 Improper Use of Evidences of Registration
- 1010.320 Suspension, Cancellation or Revocation of Illinois Registration Plates and Cards and Titles
- 1010.330 Operation of Vehicle Without Proper Illinois Registration
- 1010.350 Suspension or Revocation
- 1010.360 Surrender of Plates, Decals or Cards

SUBPART E: SPECIAL PERMITS AND PLATES

Section

- 1010.410 Temporary Registration – Individual Transactions
- 1010.420 Temporary Permit Pending Registration In Illinois
- 1010.421 Issuance of Temporary Registration Permits by Persons or Entities Other Than the Secretary of State
- 1010.425 Non-Resident Drive-Away Permits
- 1010.426 Seven Day Permits
- 1010.430 Registration Plates for Motor Vehicles Used for Transportation of Persons for Compensation and Tow Trucks
- 1010.440 Title and Registration of Vehicles with Permanently Mounted Equipment
- 1010.450 Special Plates
- 1010.451 Purple Heart License Plates
- 1010.452 Special Event License Plates
- 1010.453 Retired Armed Forces License Plates
- 1010.454 Gold Star License Plates
- 1010.455 Collectible License Plates
- 1010.456 Sample License Plates For Motion Picture and Television Studios

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

1010.457	Korean War Veteran License Plates
1010.458	Collegiate License Plates
1010.460	Special Plates for Members of the United States Armed Forces Reserves
1010.465	Requests for General Issuance Specialty License Plates
1010.470	Dealer Plate Records
1010.480	State of Illinois In-Transit Plates

SUBPART F: FEES

Section	
1010.510	Determination of Registration Fees
1010.520	When Fees Returnable
1010.530	Circuit Breaker Registration Discount
1010.540	Fees
1010.550	Determining Age of Vehicle

SUBPART G: MISCELLANEOUS

Section	
1010.610	Unlawful Acts, Fines and Penalties
1010.620	Change of Engine

SUBPART H: SECOND DIVISION VEHICLES

Section	
1010.705	Reciprocity
1010.710	Vehicle Proration
1010.715	Proration Fees
1010.720	Vehicle Apportionment
1010.725	Trip Leasing
1010.730	Intrastate Movements, Foreign Vehicles
1010.735	Interline Movements
1010.740	Trip and Short-term Permits
1010.745	Signal 30 Permit for Foreign Registration Vehicles (Repealed)
1010.750	Signal 30-Year-round for Prorated Fleets of Leased Vehicles (Repealed)
1010.755	Mileage Tax Plates
1010.756	Suspension or Revocation of Illinois Mileage Weight Tax Plates
1010.760	Transfer for "For-Hire" Loads
1010.765	Suspension or Revocation of Exemptions as to Foreign Registered Vehicles

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

1010.770 Required Documents for Trucks and Buses to detect "intrastate" movements
1010.775 Certificate of Safety

1010.APPENDIX A Uniform Vehicle Registration Proration and Reciprocity Agreement
1010.APPENDIX B International Registration Plan
1010.APPENDIX C Affirmation Supporting Salvage Certificate
1010.APPENDIX D Specialty License Plates Request Form

AUTHORITY: Authorized by Section 2-104(b) of, and implementing Chapters 3 and 5 of, the Illinois Vehicle Code [625 ILCS 5].

SOURCE: Filed and effective December 15, 1970; emergency amendment at 2 Ill. Reg. 25, p. 119, effective June 14, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 12, p. 76, effective March 23, 1979; amended at 3 Ill. Reg. 29, p. 123, effective July 20, 1979; amended at 4 Ill. Reg. 17, p. 247, effective April 11, 1980; emergency amendment at 4 Ill. Reg. 21, p. 99, effective May 14, 1980, for a maximum of 150 days; amended at 6 Ill. Reg. 2241, effective February 1, 1982; amended at 6 Ill. Reg. 11076, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 1432, effective January 21, 1983; amended at 7 Ill. Reg. 1436, effective January 21, 1983; amended at 8 Ill. Reg. 5329, effective April 6, 1984; amended at 9 Ill. Reg. 3358, effective March 1, 1985; amended at 9 Ill. Reg. 9176, effective May 30, 1985; amended at 9 Ill. Reg. 12863, effective August 2, 1985; amended at 9 Ill. Reg. 14711, effective September 13, 1985; amended at 10 Ill. Reg. 1243, effective January 6, 1986; amended at 10 Ill. Reg. 4245, effective February 26, 1986; amended at 10 Ill. Reg. 14308, effective August 19, 1986; recodified at 11 Ill. Reg. 15920; amended at 12 Ill. Reg. 14711, effective September 15, 1988; amended at 12 Ill. Reg. 15193, effective September 15, 1988; amended at 13 Ill. Reg. 1598, effective February 1, 1989; amended at 13 Ill. Reg. 5173, effective April 1, 1989; amended at 13 Ill. Reg. 7965, effective May 15, 1989; amended at 13 Ill. Reg. 15102, effective September 15, 1989; amended at 14 Ill. Reg. 4560, effective March 1, 1990; amended at 14 Ill. Reg. 6848, effective April 18, 1990; amended at 14 Ill. Reg. 9492, effective June 1, 1990; amended at 14 Ill. Reg. 19066, effective November 15, 1990; amended at 15 Ill. Reg. 12782, effective August 15, 1991; amended at 16 Ill. Reg. 12587, effective August 1, 1992; amended at 19 Ill. Reg. 11947, effective August 1, 1995; amended at 19 Ill. Reg. 16289, effective November 27, 1995; amended at 20 Ill. Reg. 11349, effective August 1, 1996; amended at 21 Ill. Reg. 8408, effective June 23, 1997; amended at 21 Ill. Reg. 13372, effective September 17, 1997; amended at 22 Ill. Reg. 8521, effective April 28, 1998; amended at 22 Ill. Reg. 22059, effective January 1, 1999; amended at 25 Ill. Reg. 7731, effective June 6, 2001; emergency amendment at 25 Ill. Reg. 14201, effective October 22, 2001, for a maximum of 150 days; emergency expired March 20, 2002; amended at 26 Ill. Reg. 14282, effective September 16, 2002; amended at 27 Ill. Reg. 4790, effective February 27, 2003; amended at 29 Ill. Reg. 8915, effective June 10, 2005;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

amended at 31 Ill. Reg. 2668, effective January 29, 2007; amended at 32 Ill. Reg. 17253, effective October 15, 2008; amended at 32 Ill. Reg. 17590, effective October 16, 2008; amended at 34 Ill. Reg. 3673, effective March 5, 2010; amended at 34 Ill. Reg. 10202, effective June 29, 2010; amended at 35 Ill. Reg. 1652, effective January 13, 2011; amended at 35 Ill. Reg. 8240, effective May 16, 2011; amended at 36 Ill. Reg. 7674, effective May 2, 2012; amended at 36 Ill. Reg. 14745, effective September 24, 2012; amended at 36 Ill. Reg. 17094, effective November 20, 2012; emergency amendment at 36 Ill. Reg. 17580, effective November 28, 2012, for a maximum of 150 days; amended at 37 Ill. Reg. 4340, effective March 22, 2013; amended at 37 Ill. Reg. 8941, effective June 14, 2013; amended at 37 Ill. Reg. 12578, effective July 17, 2013; amended at 39 Ill. Reg. 5106, effective March 20, 2015; amended at 42 Ill. Reg. 212, effective December 19, 2017; amended at 42 Ill. Reg. 14450, effective July 23, 2018.

SUBPART C: REGISTRATION

Section 1010.245 Electronic Registration and Titling (ERT) Program Provisions

- a) The Secretary may, in his or her discretion, establish a program for the electronic registration and titling (ERT) of motor vehicles. Transactions that may be conducted pursuant to an ERT program may include transmitting applications for titles and registration of motor vehicles, renewal of motor vehicle registrations, creating and removing liens from motor vehicle records, applying for salvage or junking certificates, and issuing registration plates and stickers by motor vehicle dealers, financial institutions and retail merchants, except that licensees under the Sales Finance Agency Act [205 ILCS 660] and the Consumer Installment Loan Act [205 ILCS 670] shall only be authorized to apply for titles and create and remove liens from motor vehicle records. Insurance companies shall only be permitted to apply for salvage or junking certificates and retail merchants shall only be authorized to issue registration renewal stickers.
- b) Upon the establishment of an ERT program, the Secretary may enter into agreements with ERT service providers to serve as intermediaries between the Secretary of State's office and motor vehicle dealers, financial institutions and retail merchants (collectively referred to in this Section as "vendors"). For the purposes of this Section, the term "financial institution" shall mean any federal or state chartered bank, savings and loan, credit union, and armored carrier, and any currency exchange, either directly or indirectly through an armored carrier. The term shall also include insurance companies and licensees under the Sales Finance Agency Act and the Consumer Installment Loan Act. The term "retail merchant" shall mean a business that is engaged in the sale of goods or services to the

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

general public and that has one or more permanently established places of business in Illinois.

- c) The ERT service provider shall be responsible for the following:
- 1) establishing a computerized communication link between the vendors and the Secretary of State for the transmission of titling, registration, registration renewal and lien information, in compliance with all specifications of the Secretary of State's office. The communication link must provide for the secure transmission of information as required under this Section without permitting access to the vendor's confidential information by any entity that is not authorized by the vendor and the Secretary of State. Any entity that is authorized to access a vendor's information system, software, data or network must preserve its confidentiality and integrity. This provision does not limit or prohibit the Secretary of State from accessing confidential information;
 - 2) transmitting all fees associated with the title and registration transactions to the Secretary of State and transmitting all sales taxes due and owing for the sales of motor vehicles to the Illinois Department of Revenue;
 - 3) maintaining an inventory of registration plates and stickers at a secure location that is subject to inspection by the Secretary of State, distributing those plates and stickers to vendors as necessary, receiving unused, expired, damaged and voided plates and stickers and reports of lost or stolen plates and stickers from vendors, and forwarding those reports and returning those unused, expired, damaged and voided plates and stickers to the Secretary of State warehouse monthly. For purposes of this Section, the term "plates" shall mean vehicle registration license plates, and the term "sticker" shall mean the adhesive sticker affixed to license plates and the form, with a pre-printed control number and barcode, to which the sticker is attached when shipped and printed. When this Section provides for shipping, inventory, accounting or reconciliation of, or credit for returned, stickers, the sticker must be attached to the original form or affixed to a plate and recorded as issued with that plate.
 - A) The inventory control system shall accurately track all registration plates and stickers shipped to the service provider by the Secretary, those distributed by the provider to vendors (including tracking

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

which specific plates and stickers were shipped to individual vendors), those returned by vendors to the provider, and those returned by the provider to the Secretary. The inventory yet to be shipped and the returned inventory shall be stored separately. In addition, the inventory system shall comply with one of the following:

- i) All inventory shall be maintained in sequential order, according to document number, including inventory being held for shipping to vendors and inventory returned by vendors.
 - ii) The computerized inventory control system must utilize barcode readers that enable the service provider or Secretary of State employees to scan and accurately record inventory items yet to be shipped and returned inventory. Secretary of State employees must have access to a computer terminal at the service provider's site during inventory and reconciliation procedures, and the system must allow the printing of necessary inventory reports during these procedures.
- B) Real-time access to the inventory control system shall be provided to Secretary of State staff, auditors and Secretary of State Police for review, reconciliation, auditing and inventory verification to ensure compliance with rules, policies and regulations, and for locating individual registration plates and stickers and determining to which vendor the individual registration plates and stickers were issued. All electronic information shall be maintained for not less than five years after receipt of the inventory by the service provider.
- C) Bulk inventories of registration plates and stickers will be delivered by the Secretary to the service provider as needed. The service provider shall acknowledge receipt of the inventory in a manner approved by the Secretary and is responsible for the inventory upon receipt. The service provider shall store the inventory within the State of Illinois. The service provider shall distribute registration plates and stickers to vendors, as necessary,

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

and shall accept returns from the vendors of unused, expired, damaged and voided plates and stickers.

- D) Vendors shall not return unused, expired, damaged or voided plates and stickers directly to the Secretary. The Secretary shall not be responsible for inventory incorrectly returned.
- E) Vendors who have inventory that is damaged, voided, missing, lost or stolen during a given month shall report those occurrences to the service provider not later than the final day of the following month. (Example: Inventory items damaged during August must be reported and returned to the service provider not later than the following September 30.) Credit for returned plates will only be granted when both plates in the set have been returned or accounted for, if the plates were of the type issued as a pair. All or as much as possible of the damaged or voided stickers must be returned to receive credit for returned inventory. When it is not possible to return any portion of a damaged or voided plate or sticker, an explanation as to the circumstances causing the plate or sticker to be voided or damaged, and the reasons no portion can be returned, must be provided. The Secretary shall have the right to determine whether the explanation will be accepted and whether inventory credit will be given for the plates or stickers not returned in whole or in part. In making this determination, the Secretary shall consider whether the vendor is able to retain and return the form on which the sticker is issued; whether matters beyond the control of the vendor may have contributed to the complete loss of the stickers (e.g., fires or industrial accidents that are accompanied by police reports, fire reports or insurance claims); and the history of the individual vendor with regard to the loss of stickers.
- F) Service providers may be relieved of responsibility for payment for plates and stickers reported as stolen only if a copy of a police report concerning the theft is provided to the Secretary.
- G) Not later than March 31 of each calendar year, vendors shall return to service providers all remaining stickers in their possession of the type and color that expire during that calendar year. (Example: During 2007, vendors sell stickers that expire during 2008, such

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

that a sticker sold in March 2007 expires in March 2008. As of January 2008, vendors will be selling stickers of the type and color that expire in 2009. Therefore, not later than March 31, 2008, vendors shall return to the service provider all remaining stickers in their possession of the type and color that expire during 2008).

- H) On a periodic basis, but not less than monthly, the Secretary and the service provider shall reconcile their records of plates and stickers shipped by the Secretary to the service provider, plates and stickers issued by vendors to vehicle owners and for which the appropriate documentation and fees were received by the Secretary, plates and stickers returned by vendors to the service provider as unused, expired, damaged or voided, explanations provided by vendors for damaged or voided stickers and plates that have not been returned in whole or in part, and plates and stickers still in the actual possession of the service providers and vendors. The review and accounting of inventory and returned items shall be conducted in the manner prescribed by the Secretary. After these periodic reconciliations, the unused, expired, damaged or voided plates and stickers shall be returned to the Secretary and the Secretary shall issue the service provider a receipt for the returned inventory. A preliminary report of missing billable inventory for the preceding month shall be provided after these periodic reconciliations.
- I) Following the reconciliation after March 31, June 30, September 30 and December 31, the Secretary shall invoice the service provider for all plates or stickers unaccounted for during the preceding quarter. These reconciliations will be based on the reported inventory still in the possession of vendors. Service providers shall not receive credit for unaccounted for inventory items that are located after this quarterly reconciliation and billing.
- J) The unaccounted for inventory shall be invoiced at the following rates. For unaccounted for stickers, the rate shall be \$125 per sticker. For unaccounted for plates that are intended to be sold as a set (e.g., passenger vehicle or truck plates) the rate shall be \$125 per set of plates. For unaccounted for plates that are intended to be sold individually (e.g., motorcycle or trailer plates) the rate shall be

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

\$125 per plate. Payment in full must be made to the Secretary within 45 days after receipt of the notice from the Secretary of the amount due. Service providers may recover such payments from vendors pursuant to the contracts between the service providers and the vendors.

- K) Certain types of registration stickers are sold outside of the one-year process noted in subsection (c)(3)(G) (e.g., registrations of fleet vehicles). To accommodate these sales, after the return and reconciliation of all inventory as provided in subsections (c)(3)(H) and (I), the Secretary may re-issue preceding year stickers to service providers for the use of vendors engaging in sales of vehicles requiring these registrations. These re-issued stickers shall be tracked separately in the service provider's inventory control system. Not less than three months after these re-issued stickers may no longer be legally sold, all remaining inventory of these stickers shall be returned to the service provider by the vendor, and the stickers shall be subject to the final reconciliation and billing process set forth in subsection (c)(3)(I).
 - L) The Secretary shall have the right to conduct physical inspections of the inventory of service providers and vendors during normal business hours.
 - M) The Secretary shall have the right to suspend or revoke the right of service providers and/or vendors to participate in the ERT program for failure to comply with the inventory control provisions set forth in this subsection (c)(3), or for excessive or repeated incidents of unaccounted for inventory;
- 4) complying with all requirements of the Secretary of State and the Department of Revenue concerning the security of the electronic information and funds transmissions, which shall prohibit access to a vendor's confidential information by any entity without authorization of the vendor and Secretary of State and a requirement that any entity that is authorized to access a vendor's confidential information must preserve the confidentiality and integrity of the vendor's information systems, software, data and network, the security of the registration plates and stickers, and maintaining an electronic inventory control system for the registration

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

plates and stickers. This provision does not limit or prohibit the Secretary of State from accessing confidential information;

- 5) retaining records of all ERT transactions as directed by the Secretary;
 - 6) posting a performance bond in an amount set by the Secretary, not to exceed \$1,000,000. Beginning July 1, 2012, a service provider must post a performance bond in the amount of \$1,500,000;
 - 7) registering as a remittance agent pursuant to 625 ILCS 5/Ch. 3, Art. IX;
 - 8) complying with all other terms and conditions set forth in the agreement between the Secretary of State and the ERT service provider;
 - 9) providing a formal process for billing and enforcement of all vendor inventory issues and pending transaction issues and designating a specific representative to communicate with the Secretary of State on all vendor inventory issues and pending transaction issues.
- d) The ERT service provider shall enter into agreements with vendors for participation in the ERT program.
- 1) All vendors must be currently licensed and in good standing with their regulatory agencies before being selected to participate in this program.
 - 2) The Secretary shall have the sole discretionary right to review and approve these agreements and shall have the right to approve, deny or revoke the right to participate in the ERT program by individual vendors. Retail merchants wishing to serve as vendors must be approved in advance by the Secretary. Any decision to deny or revoke an individual vendor's right to participate in the ERT program shall be based on:
 - A) the vendor's prior compliance with or violations of applicable statutes, rules and regulations;
 - B) the vendor's participation in the Secretary's temporary registration permit program and any violations of the rules and regulations of the temporary registration permit program found in Section 1010.421;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- C) violations by the vendor of this Section or violations of the terms of agreements entered into by the vendor in the ERT program;
 - D) the benefit to the public to be derived by the vendor's participation in the program;
 - E) the resources of the Secretary of State's office to support the vendor's participation in the program; and
 - F) The factors set forth in Section 1010.240(b)(2)(E)-(J).
- 3) Vendors shall inform customers that utilizing the electronic registration and titling system is optional.
 - 4) The ERT program shall not be used to request or obtain specialty, vanity or personalized registration plates.
 - 5) Fees collected for an ERT title transaction are nonrefundable by the Secretary, unless a title application has not been processed by the Secretary of State.
 - 6) Registration plates and stickers may only be issued at the time an ERT transaction is processed.
 - 7) Title, registration and registration renewal applications and other required documents shall be delivered to the Office of the Secretary of State within 20 days after vehicle sale, registration or registration renewal.
- e) Except as permitted by the Secretary during a transition period, no vendor may simultaneously participate in the ERT program and the Over-the-Counter Sales Program (see Section 1010.240).
 - f) Beginning January 1, 2013, all franchised new motor vehicle dealers must ~~electronically use an ERT program to~~ submit titling and registration applications to the Secretary of State, either through an ERT program or online through the Secretary of State website (cyberdriveillinois.com/departments/vehicles/title_and_registration/pert.html).

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- g) Beginning January 1, 2019, all franchised new and used vehicle dealers must electronically submit titling and registration applications to the Secretary of State, either through an ERT program or online through the Secretary of State website (cyberdriveillinois.com/departments/vehicles/title_and_registration/pert.html).

(Source: Amended at 42 Ill. Reg. 14450, effective July 23, 2018)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO EMERGENCY RULEMAKING

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

Heading of the Part: Public Information, Rulemaking and Organization

Code Citation: 2 Ill. Adm. Code 1975

Section Numbers: 1975.110 1975.510
1975.520 1975.530
1975.540 1975.550
1975.610 1975.620

Date Originally Published in the *Illinois Register*: 6/29/18
42 Ill. Reg. 12336

At its meeting on July 17, 2018, the Joint Committee on Administrative Rules objected to the Housing Development Authority's use of emergency rulemaking to adopt rules titled Public Information, Rulemaking and Organization (2 Ill. Adm. Code 1975; 42 Ill. Reg. 12336 - 6/29/18) because: IHDA has not adequately demonstrated the existence of a threat to the public interest, safety or welfare sufficient to justify adopting restrictions on public participation in IHDA meetings when these restrictions have not been subject to the public comment period.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of July 17, 2018 through July 23 2018. The rulemakings are scheduled for the August 14, 2018 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>
8/31/18	<u>Department of Public Health</u> , Community- Based Residential Rehabilitation Center Demonstration Program Code (77 Ill. Adm. Code 220)	4/27/18 42 Ill. Reg. 7655	8/14/18

DEPARTMENT OF HUMAN SERVICES

AGENCY RESPONSE TO JOINT COMMITTEE STATEMENT OF OBJECTION TO
PROPOSED RULEMAKING

Date _____

- 1) Agency: Department of Human Services
- 2) Heading of the Part: Alcoholism and Substance Abuse Treatment and Intervention Licenses
- 3) Code Citation: 77 Ill. Adm. Code 2060
- 4) Register Citation: 41 Ill. Reg. 14878; December 8, 2017
- 5) Agency Response to Joint Committee Statement of Objection:

At its meeting on June 12, 2018, the Joint Committee on Administrative Rules considered the above-cited rulemaking and objected to the Department's failure to fulfill the mandate of PA 100-23 that it adopt a methodology in rule increasing payment rates for licensed community-based substance abuse treatment providers within 30 days after the July 6, 2017 effective date of the Public Act.

The Department of Human Services has reviewed the statement of objection from the Joint Committee on Administrative Rules regarding the above-cited rulemaking. The Department is committed to ensuring that any statutorily required change is completed not only as quickly as possible but is also a well-designed rule which implements a policy that is in the best interests of the citizens of Illinois. In the future, the Department will strive to ensure that all rules are promulgated in a timely manner.

James T. Dimas
Secretary

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 42, Issue 31 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

89 - 112	.....	14263
89 - 113	.....	14279
89 - 121	.....	14296
89 - 270	.....	14309
35 - 190	.....	14342
92 - 1030	.....	14350

ADOPTED RULES

77 - 2060	7/18/2018	14377
89 - 140	7/23/2018	14383
50 - 1411	7/23/2018	14435
35 - 365	7/20/2018	14442
92 - 1010	7/23/2018	14450

JCAR REVIEW OF EXISTING RULES

STATEMENT OF OBJECTIONS

2 - 1975	14465
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**OTHER INFORMATION REQUIRED BY
LAW TO BE PUBLISHED IN THE
ILLINOIS REGISTER**

77 - 2060	14467
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