

2004

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REGISTER

RULES
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AGENCIES



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TABLE OF CONTENTS

August 27, 2004 Volume 28, Issue 35

PROPOSED RULES

PUBLIC AID, ILLINOIS DEPARTMENT OF Medical Payment 89 Ill. Adm. Code 140	12066
Specialized Health Care Delivery Systems 89 Ill. Adm. Code 146	12069

ADOPTED RULES

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF Senior Citizens and Disabled Persons Prescription Drug Discount Program 80 Ill. Adm. Code 2151	12071
COMMERCE COMMISSION, ILLINOIS Wholesale Service Quality for Telecommunications Carriers 83 Ill. Adm. Code 731	12083
RACING BOARD, ILLINOIS General Licensees Rules 11 Ill. Adm. Code 1313	12119
SECRETARY OF STATE, OFFICE OF THE Procedures and Standards 92 Ill. Adm. Code 1001	12123

EMERGENCY RULES

PUBLIC AID, ILLINOIS DEPARTMENT OF Medical Payment 89 Ill. Adm. Code 140	12198
Specialized Health Care Delivery Systems 89 Ill. Adm. Code 146	12218
Hospital Services 89 Ill. Adm. Code 148	12227

SECOND NOTICES RECEIVED

JOINT COMMITTEE ON ADMINISTRATIVE RULES Second Notices Received.....	12236
---	-------

JOINT COMMITTEE ON ADMINISTRATIVE RULES STATEMENTS OF RECOMMENDATION TO PROPOSED RULEMAKING

FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF Infertility Coverage 50 Ill. Adm. Code 2015	12238
CHILDREN AND FAMILY SERVICES, DEPARTMENT OF Department Advisory Groups 89 Ill. Adm. Code 428	12239

JOINT COMMITTEE ON ADMINISTRATIVE RULES STATEMENTS OF RECOMMENDATION TO EXISTING RULEMAKING

LABOR, DEPARTMENT OF	
----------------------	--

Minimum Wage Law	
56 Ill. Adm. Code 210	12240
JOINT COMMITTEE ON ADMINISTRATIVE RULES STATEMENTS	
OF OBJECTION TO EMERGENCY RULEMAKING	
PUBLIC AID, ILLINOIS DEPARTMENT OF	
Hospital Services	
89 Ill. Adm. Code 148	12241
NOTICE OF PUBLIC INFORMATION	
REVENUE, ILLINOIS DEPARTMENT OF	
2004 Second Quarter Sunshine Index.....	12242
LABOR, DEPARTMENT OF	
Contractor Prohibited From An Award of a Contract or	
Subcontract For Public Works Projects.....	12250
EXECUTIVE ORDERS AND PROCLAMATIONS	
PROCLAMATIONS	
Gregory Alan Maddux Day	
2004-232	12251
National Temporary Help Week	
2004-233	12251
GFWC Illinois Junior Women's Club Week	
2004-234	12252
Principals' Week and Principals Day	
2004-235	12252
Young Adolescents Month	
2004-236	12253
Operation Snowball Month	
2004-237	12253
School's Open Safety Week	
2004-238	12254
Lions Candy Day	
2004-239	12255
National Fibrodysplasia Ossificans Progressiva Awareness Week	
2004-240	12255
National Alcohol and Drug Addiction Recovery Month	
2004-241	12256
Ship Week	
2004-242	12257

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.523 Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]and Public Act 93-0841
- 5) Complete Description of the Subjects and Issues Involved: Payable bed reserves for nursing facilities are being reinstated pursuant to Public Act 93-0841. Payments for temporary hospitalizations will be made at 75 percent of the resident's current Medicaid per diem for up to ten days per hospitalization. Nursing facilities eligible for these bed reserve payments are those having a 93 percent or higher total occupancy level with 90 percent or more of the total occupancy level comprised of Medicaid eligible residents.

The Department estimates that the reinstatement of bed reserve payments to nursing facilities during temporary hospitalizations will result in an additional annual cost of \$5 million.

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

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.80	Amendment	April 9, 2004 (28 Ill. Reg. 5749)
140.82	Amendment	April 9, 2004 (28 Ill. Reg. 5749)
140.84	Amendment	April 9, 2004 (28 Ill. Reg. 5749)
140.452	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.453	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.454	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.455	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.456	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.645	Amendment	February 27, 2004 (28 Ill. Reg. 3700)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

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

- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded nursing facilities
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was Summarized: These proposed amendments were not included on either of the two most recent agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment that appears in this issue of the *Illinois Register* on page 12198:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
146.225	Amendment
146.255	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: Payable temporary absence for supportive living facilities (SLFs), which was discontinued July 1, 2003, is being reinstated. In a related rulemaking at 89 Ill. Adm. Code 140.523, payable bed reserves for nursing facilities are being re-established pursuant to Public Act 93-0841. Temporary absence payments for SLFs will allow equitable reimbursements to be paid to long term care environments. The Department will make payment for up to 30 days per fiscal year during a Medicaid resident's temporary absence from a SLF under circumstances including hospitalizations and vacations.

The Department estimates that the reinstatement of payments for temporary absences in SLFs will result in an additional annual cost of approximately \$250,000.
- 6) Will these proposed amendments replace any emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217)524-0081

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

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

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Supportive living facilities
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on Which this Rulemaking Was Summarized: These proposed amendments were not included on either of the two most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page 12218:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Senior Citizens and Disabled Persons Prescription Drug Discount Program
- 2) Code Citation: 80 Ill. Adm. Code 2151
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2151.10	New Section
2151.20	New Section
2151.30	New Section
2151.40	New Section
2151.50	New Section
2151.60	New Section
2151.70	New Section
2151.80	New Section
2151.90	New Section
2151.100	New Section
2151.110	New Section
2151.120	New Section
- 4) Statutory Authority: Implementing, and authorized by Section 45 of the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act [320 ILCS 55/45].
- 5) Effective Date of Rulemaking: August 12, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including material incorporated by reference, is on file with the Department's Bureau of Benefits, 201 E. Madison, Ste. 3A, Springfield IL. 62794-9208. Material incorporated by reference as stated in Section 2151.20 is also available for public inspection in the latest publication of the Red Book, a universally subscribed pharmacist reference guide published by the Hearst Corporation, and may also be derived electronically from the drug pricing database synonymous with the latest publication of the Red Book and furnished in the National Drug Data File (NDDF) by First DataBank (FDB), a service of the Hearst Corporation.
- 9) Date Notice of Proposed Rulemaking Published in Illinois Register: March 5, 2004; 28 Ill. Reg. 3939

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version:

Section 2151.20, Definitions: The definition of "Program Administrator" was expanded, and the definition of "Program Fund" was added.

Section 2151.40, Enrollment Fee: The language was expanded to allow the Director/Department to reduce the annual enrollment fee based upon actual administrative costs and to establish, maintain and account for annual enrollment fees.

Section 2151.50, Other Administrative Responsibilities of the Department, Subsection (a): Substantial changes were made relating to the Department discharging its administrative responsibilities with regard to various recordkeeping and other administrative functions. Language was also added relating to contracts allowing for inspection of appropriate records and audits of participating pharmacies or other appropriate measures to ensure contract compliance and to determine any fraudulent transactions or practices under the Act, as well as requiring that any contract entered into with outside vendors must be in compliance with the procedures and requirements set forth in the Illinois Procurement Code.

Section 2151.50, Other Administrative Responsibilities of the Department, Subsection (b): Additional language was added and some language deleted relating to the amount of reimbursement.

Section 2151.70, Enrollment: Language was expanded to require that the Administrator shall enroll eligible applicants into the program, and the requirements and process by which eligible applicants may enroll was added.

Section 2151.90, Other Administrative Responsibilities: Substantial changes were made to this Section and the Subsections were revised. Subsection (b) states that contracts with pharmacies shall require that a participating pharmacy, at a minimum, shall be licensed in Illinois; Subsection (e) now contains new language stating that cardholders may purchase medications in amounts up to a 90-day supply, except as may be necessary for utilization control reasons; Subsection (f) contains new language stating that the Department and/or Program Administrator may negotiate with one or more Drug Manufacturers for payment rebates, and the rebate dollars are to be used to further reduce the prescription cost to Seniors and Disabled Persons; Subsection (h) was added and expanded the language originally contained in Subsection (e) regarding reporting of the Program Administrator to the Department; Subsection (i) was added and expanded the language originally

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

contained in subsection (f) regarding the customer service responsibilities of the Program Administrator.

Section 2151.100, Termination of Program Administrator: Language was expanded into Subsections (a) and (b) to further clarify contract termination and/or program modification requirements.

Section 2151.110, Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund: Language that was added at second notice stating that, at the discretion of the Director, the Program Administrator may deduct an administrative fee from the amount to be deposited was purged.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No. The companion emergency rulemaking expired July 18, 2004.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments are a result of implementation of a new employee benefit program.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield IL 62706
(217) 785-4510

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

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE F: EMPLOYEE INSURANCE

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 2151

SENIOR CITIZENS AND DISABLED PERSONS

PRESCRIPTION DRUG DISCOUNT PROGRAM

SUBPART A: PURPOSE AND DEFINITIONS

Section

- 2151.10 Purpose
- 2151.20 Definitions

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

- 2151.30 Eligibility
- 2151.40 Enrollment Fee
- 2151.50 Other Administrative Responsibilities of the Department

SUBPART C: RESPONSIBILITIES OF THE PROGRAM ADMINISTRATOR

- 2151.60 Eligibility Determination
- 2151.70 Enrollment
- 2151.80 Re-enrollment
- 2151.90 Other Administrative Responsibilities
- 2151.100 Termination of Program Administrator

SUBPART D: FUNDING

- 2151.110 Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund

SUBPART E: DISCOUNTS

- 2151.120 Discounts

AUTHORITY: Implementing, and authorized by Section 45 of, the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act [320 ILCS 55].

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 4379, effective February 20, 2004; emergency expired July 18, 2004; adopted at 28 Ill. Reg. 12071, effective August 12, 2004.

SUBPART A: PURPOSE AND DEFINITIONS

Section 2151.10 Purpose

This Part implements the Senior Citizens and Disabled Persons Prescription Drug Discount Program, also known as the Illinois Rx Buying Club, to enable Illinois senior citizens and disabled persons to purchase prescription drugs at discounted prices.

Section 2151.20 Definitions

The following terms have the following meanings:

"Act" means the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act [320 ILCS 55].

"Authorized Pharmacy" means any pharmacy registered in this State under the Pharmacy Practice Act of 1987 and approved by the Department or its Program Administrator.

"AWP" or "Average Wholesale Price" means the amount determined from the latest publication of the Red Book, a universally subscribed pharmacist reference guide published by the Hearst Corporation. AWP may also be derived electronically from the drug pricing database synonymous with the latest publication of the Red Book and furnished in the National Drug Data File (NDDF) by First DataBank (FDB), a service of the Hearst Corporation.

"Cardholder" means an eligible senior or eligible disabled person who has enrolled in the program.

"Citizen" means a resident of the State of Illinois.

"Department" or "CMS" means the Department of Central Management Services.

"Director" means the Director of Central Management Services.

"Drug Manufacturer" means any entity that is located within or outside Illinois that is engaged in:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

the production, preparation, propagation, compounding, conversion, or processing of prescription drug products covered under the program, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; or

the packaging, repackaging, leveling, labeling, or distribution of prescription drug products covered under the program

and that elects to provide prescription drugs either directly or under contract with any entity providing prescription drug services on behalf of the State of Illinois. Drug manufacturer, however, does not include a wholesale distributor of drugs or a retail pharmacy licensed under Illinois law.

"Eligible Disabled Person" means a resident of Illinois who is disabled under a Class 2 disability as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335] or is eligible to receive disability under the Federal Social Security Act.

"Eligible Enrollee" means an eligible senior and/or eligible disabled person.

"Eligible Senior" means a resident of Illinois who is 65 years of age or older.

"Participating Pharmacy" means a pharmacy that has entered into a contract with the Program Administrator to participate in this program.

"Prescription Drug" means any prescribed drug that may be legally dispensed by an authorized pharmacy.

"Program" means the Illinois Rx Buying Club created under the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act.

"Program Administrator" means the entity that is chosen by the Department to administer the program, consistent with the requirements of the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act and this Part.

"Program Fund" means the Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund, created as a special fund under the State Finance Act [30 ILCS 105/5.595].

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

Section 2151.30 Eligibility

Eligibility is limited to residents of Illinois who are:

- a) Disabled and under a Class 2 disability as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A] and/or is eligible to receive disability under the Federal Social Security Act; or
- b) 65 years of age and older; or
- c) Eligible for pharmaceutical assistance under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act (PAP).

Section 2151.40 Enrollment Fee

To participate in the program, an approved applicant must pay \$25 upon enrollment and annually thereafter (Section 35(a) of the Act). The enrollment fee for persons eligible through PAP is waived (Section 35(c) of the Act). The Director may, by rule, reduce the annual enrollment fee, based upon actual administrative costs. The Department shall establish, maintain and account for annual enrollment fees in the Senior Citizens and Disabled Persons Prescription Drug Fund.

Section 2151.50 Other Administrative Responsibilities of the Department

- a) In discharging its administrative responsibilities pursuant to the Act, the Department will either act as the Program Administrator or enter into a contract with an outside vendor, pursuant to Section 25 of the Act, and/or agreements with State agencies under which those entities will serve as the Program administrator and/or exercise various recordkeeping and other administrative functions. Any contract or agreement must provide for inspection of appropriate records and audits of participating pharmacies or other appropriate measures deemed sufficient by the Director, in his or her discretion, to ensure contract compliance and to determine any fraudulent transactions or practices under the Act. Any contract entered into with outside vendors must be in compliance with the procedures and requirements set forth in the Illinois Procurement Code [30 ILCS 500] and 40 Ill. Adm. Code 1.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

- b) The Department will reimburse the Program Administrator for the cost of cardholder enrollment, pursuant to the contract entered into by the Department and the Program Administrator. The amount of reimbursement, not to exceed \$10, will be at a rate to be agreed upon by the Department and the Program Administrator and will be set forth in the contract.
- c) The Department will, in cooperation with the Program Administrator, establish procedures for properly contracting for pharmacy services and validating compliance of authorized pharmacies with the Act and this Part.
- d) The Department shall report to the Governor and the General Assembly by March 1 of each year on the administration of the program.

SUBPART C: RESPONSIBILITIES OF THE PROGRAM ADMINISTRATOR

Section 2151.60 Eligibility Determination

The Program Administrator shall obtain the necessary enrollment information from applicants and shall verify eligibility. Eligibility shall be determined within 30 days after receipt of the application.

Section 2151.70 Enrollment

The Program Administrator shall:

- a) Enroll eligible applicants into the program.
 - 1) Enrollment of PAP members is automatic.
 - 2) Other eligible applicants may enroll by mail, facsimile or telephonic process.
 - 3) Eligible applicants who enroll by mail or facsimile shall apply on the form prescribed by the Department, which shall include, but not be limited to, the following elements:
 - A) complete name, mailing address, telephone number;
 - B) Social Security number;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

- C) payment provisions;
- D) applicant certification;
- E) age and disability status;
- F) participation requirements for other programs;
- G) certification of information provided; and
- H) Program Administrator and/or agency contact information.

Also included will be a recital that only one pharmaceutical card may be used to purchase a prescription.

- b) Distribute the identification card to the eligible enrollee.
- c) Enroll persons participating in PAP, through an electronic file provided by the Department of Revenue or any subsequent State agency responsible for the administration of PAP.
- d) Collect and deposit enrollment fees into the Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund.

Section 2151.80 Re-enrollment

- a) The period of enrollment in the program is one year. Cardholders must re-enroll each year by their one-year anniversary date or enrollment is terminated.
- b) Any person eligible for PAP is automatically enrolled in the program and is not required to re-enroll annually. Enrollment of these persons is automatically terminated if the person is no longer eligible under PAP.

Section 2151.90 Other Administrative Responsibilities

- a) The Program Administrator shall contract with pharmacies electing to participate in the Illinois Rx Buying Club.
- b) Contracts with pharmacies shall require that a participating pharmacy, at a minimum, shall be licensed in Illinois.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

- c) The discounts to a card shall be no less than, but may be greater than:
 - 1) AWP minus 12% for brand name drug products and, for a period of 6 months following release, newly release generic drug products; and
 - 2) AWP minus 35% for all other generic drug products.
- d) The dispensing fees shall be no greater than, but may be less than:
 - 1) \$3.50 per prescription for brand name drug products, single-source drug products, and, for a period of 6 months after their release, newly released generic drug products; and
 - 2) \$4.25 per prescription for all other generic drug products.
- e) Cardholders may purchase medications in amounts up to a 90-day supply, except as may be necessary for utilization control reasons.
- f) The Department and/or Program Administrator may negotiate with one or more drug manufacturers for payment rebates. These rebate dollars are to be used to further reduce the prescription cost to seniors and disabled persons, consistent with the requirements of the Act and this Part.
- g) Subject to funds available through rebate agreements negotiated by the Department or the Program Administrator and drug manufacturers, a participating pharmacy shall be reimbursed any difference between the contracted discount rate agreed to by the participating pharmacy and the actual amount paid by the cardholder. Nothing in this subsection precludes a participating pharmacy from knowingly and voluntarily accepting a contract rate that provides the eligible cardholder with lower out-of-pocket costs than those set forth in the Act. All discounts negotiated with a participating pharmacy greater than the minimum discount set forth in subsection (c) shall be given, in its entirety, directly to the cardholder at the point of sale.
- h) The Program Administrator is responsible for providing reports to the Department regarding enrollment participation, prescription costs, savings, pharmacy participation, and any other reports deemed necessary by the Department. The format of the reports shall be mutually agreed upon by the Program Administrator and the Department. The Administrator's provision of such reports shall not

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

preclude the Department from inspection of appropriate records and audits of pharmacies pursuant to Section 45(3) of the Act.

- i) The Program Administrator is responsible for providing customer service to cardholders and is responsible for developing, administering and promoting any clinical programs, such as disease management, implemented at the discretion of the Director.

Section 2151.100 Termination of Program Administrator

- a) The contract with the Program Administrator may be terminated by the Director, with cause, upon 30 days written notice or, without cause, upon at least 120 days written notice. Reasons for cause include, but are not limited to, gross and/or repeated negligence of the Program Administrator and failure of the Program Administrator to meet substantially and/or consistently the standards of performance.
- b) Upon written notice, the Director may require the Program Administrator to modify its conduct of the Program.

SUBPART D: FUNDING

Section 2151.110 Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund

The Department and/or Program Administrator shall collect and the Department shall deposit enrollment fees into the Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund. The Department shall separately account for enrollment fees deposited into the Fund.

SUBPART E: DISCOUNTS

Section 2151.120 Discounts

- a) The Program Administrator shall electronically communicate prescription drug discount information to the participating pharmacy.
- b) The Program Administrator shall ensure and guarantee that a cardholder will be charged no more than the rate agreed to in the contract.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

- c) Any manufacturer or group purchasing organization rebate used to provide a discount greater than the agreed to pharmacy rate to the cardholder shall be reimbursed to the participating pharmacy subject to availability of funds.
- d) The cardholder shall receive the greatest discount available through the participating pharmacy at the point of sale. The total amount paid by the available cardholder for any prescription drug under this program shall not exceed the usual and customary charge for the prescription.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Wholesale Service Quality for Telecommunications Carriers
- 2) Code Citation: 83 Ill. Adm. Code 731
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
731.100	New Section
731.105	New Section
731.110	New Section
731.200	New Section
731.205	New Section
731.210	New Section
731.220	New Section
731.230	New Section
731.300	New Section
731.305	New Section
731.310	New Section
731.315	New Section
731.320	New Section
731.325	New Section
731.330	New Section
731.400	New Section
731.405	New Section
731.410	New Section
731.420	New Section
731.500	New Section
731.505	New Section
731.600	New Section
731.605	New Section
731.610	New Section
731.615	New Section
731.620	New Section
731.625	New Section
731.630	New Section
731.635	New Section
731.700	New Section
731.705	New Section
731.800	New Section
731.805	New Section
731.810	New Section
731.815	New Section

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

731.820 New Section
731.900 New Section
731.905 New Section

- 4) Statutory Authority: Implementing Sections 13-712(g) and 13-902(c)(3) of the Public Utilities Act [220 ILCS 5/13-712(g) and 13-902(c)(3)].
- 5) Effective Date of Rules: September 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 01/23/04, at 28 Ill. Reg. 1294
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: Replace "the effective date of this Part" with "September 1, 2004" wherever the term appears

Section 731.105: Replace "Pre-Rule Plan" with "preexisting plan" in the definition "Preexisting plan".

Section 731.105: Delete definition "Pre-Rule Plan".

Replace "June 1, 2004" with "September 15, 2004" wherever the term appears.

Section 731.105: In the definition "Wholesale service", add "and shall include loss notification, customer service records and unbundled loop returns" after "Part".

Section 731.205(c): Add "If the Commission initiates a docket investigating a plan, a verified answer to the initiating order shall be filed and served on the appropriate parties within 30 days after the date upon which the initiating order issued."

Section 731.205(d): Add "A verified answer to a complaint shall be filed and served on the appropriate parties within 30 days after the date upon which the complaint was filed."

Section 731.210: Replace "731.200(c)" with "731.205(c)".

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these rules replace any emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules? The rules establish four “tiers” of telecommunications carriers, or “Levels.” The carriers that provide the bulk of the wholesale service, the Incumbent Local Exchange Carriers (“ILECs”) with 400,000 or more access lines (SBC and Verizon) are Level 1 carriers. All other ILECs, except carriers subject to the rural exemption, are Level 2 carriers. ILECs that are subject to the rural exemption are classified as Level 3 carriers. All other LECs or Competitive Local Exchange Carriers (CLECs) are classified as Level 4 carriers.

The Part requires Level 1 carriers that already have Wholesale Service Quality Plans that were developed as a result of merger commitments to have a Commission-approved Wholesale Service Quality Plan that meets certain requirements and criteria set forth in the rules. The Part provides a procedure for Commission approval of, and periodic review of, such Plans.

With respect to Level 2 carriers, the set of measures imposed by the rules are more limited than those found in Level 1 Wholesale Service Quality Plans. The rules do not impose any performance measures on Level 3 carriers, except when such carriers lose their rural exemption. Level 4 carriers that provide little wholesale service are subject to three performance measures, standards, and some remedies.

The Part contains performance measures and standards. Generally, the measures and standards concern timeframes for provisioning services, for maintenance and repair and for the transition that occurs when an end user customer switches carriers. These standards also determine what information a carrier must supply to another carrier in given situations. Failure to meet the standards can result in a payment or in the issuing of a credit on a future bill, depending on the measure breached. However, the Part also provides that carriers are excused from performance within designated timeframes, if failure to perform was due to a circumstance beyond the provisioning carrier’s control, such as a tornado, an act of terrorism, or the actions of the end user.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

(217)785-3922

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE COMPANIES

PART 731

WHOLESALE SERVICE QUALITY FOR TELECOMMUNICATIONS CARRIERS

SUBPART A: GENERAL

Section

- 731.100 Purpose and Application of Part
- 731.105 Definitions
- 731.110 Classifications of Carriers

SUBPART B: PROCEDURE FOR LEVEL 1 CARRIERS

Section

- 731.200 Applicability of Subpart B
- 731.205 Submission of Wholesale Service Quality Plans
- 731.210 Investigation or Review of Wholesale Service Quality Plans
- 731.220 Wholesale Service Quality Plan Filing Requirements
- 731.230 Effective Wholesale Service Quality Plan Pending Review and Approval by the Commission

SUBPART C: PLAN REQUIREMENTS FOR LEVEL 1 CARRIERS

Section

- 731.300 Applicability of Subpart C
- 731.305 General Plan Requirements
- 731.310 Types of Service Covered
- 731.315 Measures and Standards
- 731.320 Remedies
- 731.325 Reporting
- 731.330 Auditing

SUBPART D: PROVISIONS APPLICABLE TO ALL LEVEL 1 CARRIERS

Section

- 731.400 Applicability of Subpart D
- 731.405 Treatment and Effect of Wholesale Service Emergency Situations

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 731.410 Additional Reporting Requirements
731.420 Effect of Interconnection Agreements

SUBPART E: COMMISSION REVIEW AND APPROVAL OF
PLANS FOR LEVEL 1 CARRIERS

Section

- 731.500 Applicability of Subpart E
731.505 Commission Review and Approval of Wholesale Service Quality Plans

SUBPART F: OBLIGATIONS OF LEVEL 2 CARRIERS

Section

- 731.600 Applicability of Subpart F
731.605 Types of Service Covered by and Exemption from Reporting Requirements from
Subpart F
731.610 Measures and Standards under Subpart F
731.615 Remedies under Subpart F
731.620 Reporting under Subpart F
731.625 Auditing under Subpart F
731.630 Effect of Interconnection Agreement
731.635 Application of Level 1 Requirements to Level 2 Carriers and Conversion to Level
1

SUBPART G: PROVISIONS APPLICABLE TO LEVEL 3 CARRIERS

Section

- 731.700 Applicability of Subpart G
731.705 Conversion to Level 2

SUBPART H: PROVISIONS APPLICABLE TO LEVEL 4 CARRIERS

Section

- 731.800 Applicability of Subpart H
731.805 Types of Service Covered and Exemptions from Certain Subparts
731.810 Measures and Standards under Subpart H
731.815 Remedies under Subpart H
731.820 Application of Level 2 Requirements to Level 4 Carriers and Conversion to Level
2

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

SUBPART I: PROVISIONS APPLICABLE TO ALL CARRIERS

- 731.900 Applicability of Subpart I
731.905 Notice of Termination of Wholesale Service

AUTHORITY: Implementing Sections 13-712(g) and 13-902(c)(3) of the Public Utilities Act [220 ILCS 5/13-712(g) and 13-902(c)(3)].

SOURCE: Adopted at 28 Ill. Reg. 12083, effective September 1, 2004.

SUBPART A: GENERAL

Section 731.100 Purpose and Application of Part

This Part governs carrier to carrier wholesale service quality standards and remedies in accordance with Section 13-712(g) of the Public Utilities Act [220 ILCS 5/13-712(g)], including, but not limited to, establishing guidelines for the development and submission of wholesale service quality plans for Level 1 carriers establishing wholesale service quality obligations for Level 2 carriers, and establishing the criteria pursuant to which certain carriers are or may be exempt from Subparts B, C, D, E, and F of this Part. Unless otherwise indicated, the provisions of this Part are applicable to all providers of wholesale service to the extent that they are providing wholesale service.

Section 731.105 Definitions

"Act" means the Public Utilities Act [220 ILCS 5].

"Billing" means the processes and systems used to prepare and provide bills to carriers for service ordered and rendered by the providing carrier. "Billing" also includes the functions required to investigate and dispute bills by the carrier receiving the bill.

"Bona fide request" means a telecommunications carrier's written request to another telecommunications carrier to provide a wholesale service.

"Business day" means Monday through Friday, inclusive, excluding weekends and holidays observed and published by the providing carrier.

"Carrier" means a telecommunications carrier as defined in Section 13-202 of the Act [220 ILCS 5/13-202].

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"Carrier to carrier wholesale service quality" means the level of quality of telecommunications service, measured pursuant to this Part, that one telecommunications carrier sells or provides to another telecommunications carrier for the latter carrier's use in providing a telecommunications service to end users.

"Change management" means the series of processes and procedures negotiated between two or more carriers that detail the guidelines by which operation support system (OSS) changes are requested and made and for which notice is provided to the users of the OSS.

"Collocation" means the placement by one carrier of its network equipment at the premises of another carrier.

"Commission" means the Illinois Commerce Commission.

"Customer service record" or "CSR" means account information that a providing carrier maintains about an end user and includes, but is not limited to, the billing name, service address, and billing address of the end user. A CSR shall not be requested until after the requesting carrier has received authorization from the end user customer.

"Firm order confirmation" or "FOC" means the document or electronic record by which a provisioning carrier notifies a requesting carrier that the service order has been received and what due date has been assigned.

"Good cause" is evidence or law presented in a Commission proceeding that establishes a party's entitlement to the relief at issue or requested.

"High frequency portion of the loop" or "HFPL" means the frequency range above the voiceband on a copper loop facility that is being used to carry analog circuit-switched voiceband transmissions. Access to the HFPL is commonly called line sharing or line splitting.

"Interconnection trunks" means network facilities used to interconnect two switches of different carriers.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"Local exchange carrier" or "LEC" means a carrier certificated by the Commission to provide intraexchange service within the same market service area (see Section 13-208 of the Act [220 ILCS 5/13-208]).

"Local loop" means a transmission facility between a distribution frame (or its equivalent) in a carrier's central office and the loop demarcation point at an end user customer premises. Local loop includes HFPL.

"Loss notification" means the notice or notification given to a requesting carrier that uses the provisioning carrier's facilities to offer service to its end user when the end user of the service decides to switch its service to the provisioning carrier or to another carrier. This notification is sent from the provisioning carrier to the losing carrier to notify the losing carrier that it has lost the end user customer. Typically, this notification is the mechanism through which the losing carrier obtains information to know that it should cease billing the end user for a given service that one carrier sells or provides to another carrier, as a component of, or for the provision of, telecommunications service to end users.

"Maintenance and repair" means the actions taken or functions used to create trouble reports, view or determine trouble report status and trouble report history, receive proactive status on trouble reports, and clear and close trouble reports.

"Measure" means the specific component or attribute of a wholesale service that is being measured to assess service quality pursuant to an adopted or agreed upon standard. Measures are often based on the pre-ordering, ordering, provisioning, maintenance and repair, or billing functions used to deliver the service.

"Operation support systems" or "OSS" means the various systems and business processes used by a carrier to conduct business with its customers. Typically, OSS covers pre-ordering, ordering, provisioning, maintenance and repair, and billing functions.

"Ordering" means the sequence of steps involved in placing an order with a carrier.

"Preexisting plan" means:

A plan implemented by or for a carrier prior to September 1, 2004 that contains one or more of the components required for a wholesale service quality plan as set forth in Section 731.305 (General Plan Requirements),

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

the terms and provisions of which have been specifically reviewed and approved by the Commission within the previous three years in a docketed proceeding, other than a proceeding that reviewed a negotiated or arbitrated agreement pursuant to section 252 of the federal Telecommunications Act of 1996 (47 USC 252); or

If the terms and conditions of a preexisting plan have not been specifically reviewed and approved by the Commission within the previous three years in a docketed proceeding other than a proceeding that reviewed a negotiated or arbitrated agreement pursuant to section 252 of the federal Telecommunications Act of 1996, then the most recent preexisting plan implemented by that carrier pursuant to a Commission order or, if no preexisting plan was implemented by that carrier pursuant to a Commission order, the most recent preexisting plan implemented by that carrier on a voluntary basis.

"Pre-ordering" means the exchange of specific information (usually an inquiry and response process) between two carriers for the purpose of gathering appropriate information before submitting a request or order.

"Provision" or "provisioning" means to supply, or the supplying of, telecommunications service to a user. With respect to OSS, "provisioning" also means the functions used to manage and monitor an order during the period between the order placement and order completion.

"Provisioning carrier" means the carrier provisioning, or committing or offering to provision, a wholesale service to another carrier.

"Public interest" has the same meaning as in 47 U.S.C. 252(e).

"Reject notice" means a method by which a carrier notifies a requesting carrier that a service request or order is rejected.

"Remedy" means a payment or credit from one carrier to another carrier or the State of Illinois for failure to provide wholesale service at the standard prescribed in Section 731.320 for Level 1 carriers, Section 731.615 for Level 2 carriers, and Section 731.815 for Level 4 carriers.

"Requesting carrier" means the carrier requesting, ordering, or receiving a wholesale service from another carrier.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"Resold local service" means the sale, for purposes of resale, of a complete telecommunications path (i.e., switch port and loop) and associated support (e.g., 9-1-1) by a facilities-based carrier to another carrier.

"Rural exemption" means the exemption granted to rural telephone companies under section 251(f) of the federal Telecommunications Act (47 USC 251(f)).

"Standard" means the rate or level at which a measure is to be provided.

"Telecommunications Act" means the federal Telecommunications Act of 1934, as amended by the Telecommunications Act of 1996.

"Trouble report" has the same meaning as in 83 Ill. Adm. Code 730.

"Unbundled local loop" means the physical connection from the end user's premises to the carrier's point of presence, excluding switching or ports, provided by one carrier to another carrier.

"Unbundled loop return" means the release for reuse by a carrier of an unbundled local loop to a different carrier when the subscriber, whose local telephone service resides on the unbundled loop, authorizes a change in its local telephone service to a different carrier.

"Wholesale out of service" means a situation in which the wholesale service can not be used for its intended function. "Out of service" does not include a situation in which the essential elements of a wholesale service are still operational but there are extra features that are not working (e.g., for dial tone wholesale service a line is not out of service if the call blocking feature is not working but the line has dial tone and can be used to receive and place calls; for non-dial tone wholesale service a line is out of service when the circuit is incapable of transporting voice and/or data).

"Wholesale service" means any telecommunications service subject to the Commission's jurisdiction that one carrier sells or provides to another carrier, as a component of, or for the provision of, telecommunications service to end users, including, but not limited to, any wholesale service that is subject to wholesale service quality standards pursuant to this Part and shall include loss notification, customer service records and unbundled loop returns.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"Wholesale service emergency situation" means a single event that causes an interruption of service or installations affecting wholesale service provided by a carrier. The emergency situation shall begin with the first carrier whose wholesale service is interrupted by the single event and shall end with the restoration or installation of the service of all affected carriers. The term "single event" shall include:

A declaration made by the applicable State or federal governmental agency that the area served by the local exchange carrier is either a State or federal disaster area; or an act of third parties, including acts of terrorism, vandalism, riot, civil unrest, or war, or acts of parties that are not agents, employees or contractors of the local exchange carrier; or a severe storm, tornado, earthquake, flood or fire, including any severe storm, tornado, earthquake, flood or fire that prevents the local exchange carrier from restoring service due to impassable roads, downed power lines, or the closing off of affected areas by public safety officials.

The term "wholesale service emergency situation" shall not include: a single event caused by high temperature conditions alone; or a single event caused, or exacerbated in scope and duration, by acts or omissions of the local exchange carrier, its agents, employees or contractors or by the condition of facilities, equipment, or premises owned or operated by the local exchange carrier who is claiming that the interruption of service is due to an emergency situation; or any service interruption that occurs during a single event listed above, but is not caused by those single events; or a single event that the local exchange carrier who is claiming that the interruption of service is due to an emergency situation could have reasonably foreseen and taken precautions to prevent; provided, however, that in no event shall such carrier be required to undertake precautions that are technically infeasible or economically prohibitive.

This Part shall be construed as being content neutral as to whether a strike or other work stoppage is a "wholesale service emergency situation". In the event of a strike or other work stoppage, the local exchange carrier's obligations to provide remedies under this Part shall, in the absence of a decision by a court of competent jurisdiction, be determined by the Commission on a case-by-case basis based upon the individual factual circumstances of each strike or other work stoppage. In making such a determination, and notwithstanding the definition of "wholesale service emergency situation", the Commission shall not presume that a strike or other work stoppage is an act of an employee or of the local exchange carrier. Notwithstanding anything to the contrary contained in this definition, a

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

carrier shall not treat a strike or other work stoppage as a wholesale service emergency situation for reporting purposes unless and until a determination is made that such strike or other work stoppage constitutes a wholesale service emergency situation.

"Wholesale service quality plan" or "plan" means a plan filed or approved pursuant to Subpart B, C, D, or E of this Part.

"Wholesale special access" means wholesale service subject to the Commission's jurisdiction utilizing a dedicated non-switched transmission path used for carrier-to-carrier service from the customer's NID (Network Interface Device) or POI (Point Of Interface) to the carrier's POI (Point Of Interface) to one or more of the following: the provisioning carrier's POI; another NID or POI on the requesting carrier's network; or another carrier's network. A non-switched transmission path may include, but is not limited to, DS1, DS3, and OCn facilities as well as links for SS7 signaling, database queries, and SONET ring access. "Wholesale special access" includes wholesale special access service subject to the Commission's jurisdiction provided to a wireless carrier or to another telecommunication carrier.

Section 731.110 Classifications of Carriers

- a) Level 1 Carriers. For purposes of this Part, the following carriers shall be Level 1 carriers:
 - 1) LECs in the State of Illinois that provide wholesale service and have a preexisting plan; or
 - 2) LECs in the State of Illinois that have obligations pursuant to section 251(c) of the federal Telecommunications Act, with 400,000 or more subscriber access lines in service; or
 - 3) LECs in the State of Illinois that provide wholesale service and are directed pursuant to a Commission order to comply with all of the requirements of Subparts B, C, D, and E pursuant to Section 731.635.
- b) Level 2 Carriers. For purposes of this Part, Level 2 carriers are those LECs in the State of Illinois that provide wholesale service and satisfy each of the following requirements:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 1) Have obligations pursuant to section 251(c) of the federal Telecommunications Act, with fewer than 400,000 subscriber access lines in service;
 - 2) Do not have a preexisting plan;
 - 3) Do not have a wholesale service quality plan approved by the Commission pursuant to Subpart E;
 - 4) Have not been directed pursuant to a Commission order to comply with all of the requirements of Subparts B, C, D, and E pursuant to Section 731.635; and
 - 5) Do not have a currently effective rural exemption.
- c) Level 3 Carriers. For purposes of this Part, Level 3 carriers are those LECs in the State of Illinois with a rural exemption from the obligations of section 251(c) of the federal Telecommunications Act.
- d) Level 4 Carriers. For purposes of this Part, Level 4 carriers are those LECs in the State of Illinois that do not have obligations pursuant to section 251(c) of the federal Telecommunications Act and are not Level 3 carriers.

SUBPART B: PROCEDURE FOR LEVEL 1 CARRIERS

Section 731.200 Applicability of Subpart B

The provisions of Subpart B are applicable to all Level 1 carriers.

Section 731.205 Submission of Wholesale Service Quality Plans

- a) On or before September 15, 2004, and every three years thereafter, every Level 1 carrier shall submit to the Manager of the Telecommunications Division of the Commission its Wholesale Service Quality Plan as specified in, and pursuant to, Subparts B, C, D and E of this Part. Additional submissions shall be made each time a Level 1 carrier's wholesale service quality plan is amended. With each submission, the Level 1 carrier shall include a brief explanation of any changes to the plan. For any submission due after September 15, 2004, if a Level 1 carrier proposes to maintain, without any additions, deletions or modifications, its existing wholesale service quality plan, the Level 1 carrier may file a submission

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

to the Manager of the Telecommunications Division, in the form of a verified statement establishing that it proposes to maintain its existing plan in effect, without any additions, deletions or modifications.

- b) Any carrier designated by the Commission as a Level 1 carrier pursuant to Section 731.110 or 731.635 shall submit to the Manager of the Telecommunications Division its wholesale service quality plan within 90 days after its designation as a Level 1 carrier by the Commission, and, after one year from the submission of its initial wholesale service quality plan, shall submit all amended wholesale service quality plans pursuant to subsection (a).
- c) If the Commission has reason to believe that implementation of a Level 1 carrier's wholesale service quality plan discriminates against a telecommunications carrier that is not a party to the agreement, or if the Commission has reason to believe that implementation of the plan is not consistent with the public interest, convenience and necessity, it may initiate a proceeding to investigate that wholesale service quality plan. After an investigation and notice and an opportunity to be heard, the Commission may modify, update, or in any way amend the plan prior to the end of the triennial period. If the Commission initiates a docket investigating a plan, a verified answer to the initiating order shall be filed and served on the appropriate parties within 30 days after the date upon which the initiating order issued.
- d) 45 days prior notice of any proposed change or modification to a Plan shall be served on the Manager of the Telecommunications Division of the Commission and all affected carriers via mail, with postage prepaid, or fax, or e-mail and shall be available for inspection on that Level 1 carrier's website. Any carrier contesting the proposed change must file, within 30 days after the date of service of the notice of the proposed change, a complaint, with the Commission, in which the complaining carrier sets forth the reasons it contests the change. A verified answer to a complaint shall be filed and served on the appropriate parties within 30 days after the date upon which the complaint was filed.
- e) At any hearing regarding a change or modification to a plan, the carrier proposing the change or modification to the plan shall have the burden of proof to establish the justness and reasonableness of the changes or modifications.

Section 731.210 Investigation or Review of Wholesale Service Quality Plans

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

For each investigation or review of a wholesale service quality plan pursuant to Section 731.205(c), unless otherwise ordered by an Administrative Law Judge or the Commission, if the Administrative Law Judge or Commission determines that there is good cause to delay the proceeding, the Commission shall initiate a proceeding and schedule a prehearing conference (see 83 Ill. Adm. Code 200.300) to occur no more than 21 days after the initiation of the proceeding. The carrier submitting the plan shall be a party to the proceeding. Other parties may intervene, pursuant to the Commission's Rules of Practice (83 Ill. Adm. Code 200). The proceeding will be scheduled, unless otherwise ordered by the Administrative Law Judge or the Commission, if the Administrative Law Judge or Commission determines that there is good cause to delay the proceeding, so that a proposed order is presented to the Commission by the Administrative Law Judge no later than 6 months after the date of the initiation of the proceeding. The purpose of the investigation or review shall be to determine if a carrier's plan complies with the requirements of Subparts B, C, D and E of this Part.

Section 731.220 Wholesale Service Quality Plan Filing Requirements

- a) The wholesale service quality plan filing requirements set forth in this Section are designed to assist the Commission and Commission Staff in performing a review of wholesale service quality plan filings under this Part. Information and schedules contained in the filing requirements may be designed to provide evidence to support the carrier's position or to provide supplemental information to facilitate the Commission Staff's review of the filing. The information supplied under the filing requirements shall not be construed as evidence or made part of the record unless it is offered by a party under the applicable Commission rules (83 Ill. Adm. Code 200.610 to 200.700).
- b) Each carrier subject to this Subpart shall, on the date specified in Section 731.205 for the filing of its wholesale service quality plan, file the prepared direct testimony and exhibits of carrier personnel and any expert witnesses in support of the carrier's plan. Prepared direct testimony shall be in compliance with the Commission's Rules of Practice (83 Ill. Adm. Code 200). The pre-triennial filing requirements of this subsection shall only apply to the initial filings under Section 731.205(a) and the initial filing under Section 731.205(b), and shall not apply to any interim filing prior to the end of a triennial period. At a minimum, the prepared direct testimony and exhibits shall address and/or include the following:
 - 1) The carrier's wholesale service quality record over the last two years, including a summary of performance and of any remedy payments or credits paid, given and/or assessed over that time period;

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 2) All changes to the carrier's wholesale service quality plan most recently approved by the Commission or, if the carrier does not have a previously approved wholesale service quality plan but does have a preexisting plan, all changes to the carrier's preexisting plan, and the basis for all such changes relied upon by the carrier;
 - 3) Compliance of the carrier's wholesale service quality plan with the requirements of Subpart C of this Part;
 - 4) Compliance of the carrier's wholesale service quality plan with the criteria for review described in Subpart D of this Part;
 - 5) A listing of proposed changes to the carrier's existing wholesale service quality plan;
 - 6) The probable impact of proposed changes to the carrier's existing wholesale service quality plan; and
 - 7) Support for the impact of proposed changes.
- c) Waiver of filing requirements
- 1) Requests for waivers from these filing requirements shall be filed with the Commission at least 60 days prior to the filing of the plan for which the waiver would be effective, if granted. Requests for waivers will be acted on by the Commission or, if directed by the Commission, the Manager of the Administrative Law Judge (ALJ) Division or his or her appointed representative (Administrative Law Judge) and shall be in writing.
 - 2) A request for a waiver of any of the provisions of these filing requirements shall be in writing, verified, and must set forth the specific reasons in support of the request. The Commission or ALJ (where directed by the Commission) shall grant the request for a waiver upon good cause shown by the carrier. In determining whether good cause has been shown, the Commission or ALJ shall consider, among other things:
 - A) Whether other information the carrier would provide if the waiver is granted permits the Commission Staff to review the filing in a complete and timely manner;

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- B) The degree to which the information that is the subject of the waiver request is maintained by the carrier in the ordinary course of business or is available to it from the information that it maintains; and
 - C) The expense to the carrier in providing the information that is the subject of the waiver request.
- 3) Proprietary and confidential information. Any data, information or studies that is confidential, proprietary or trade secret in nature shall be so marked by the carrier. The carrier shall separate from its filing that information marked as confidential, proprietary or trade secret in nature from the material that is to be made public.

Section 731.230 Effective Wholesale Service Quality Plan Pending Review and Approval by the Commission

- a) For a carrier with a preexisting plan, its preexisting plan shall be its effective wholesale service quality plan from September 1, 2004 through the effective date of its plan due to be filed on or before September 15, 2004, under Section 731.205.
- b) For a carrier designated by the Commission as a Level 1 carrier pursuant to Sections 731.110 and 731.635, that carrier shall not have an effective plan pending the effective date of its initial plan to be filed under Section 731.205 unless the Commission orders or establishes an interim wholesale service quality plan. If the Commission orders an interim wholesale service quality plan under Section 731.635, the interim wholesale service quality plan shall be that carrier's effective wholesale service quality plan pending the effective date of its plan to be filed under Section 731.205.

SUBPART C: PLAN REQUIREMENTS FOR LEVEL 1 CARRIERS

Section 731.300 Applicability of Subpart C

The provisions of Subpart C are applicable to all Level 1 carriers.

Section 731.305 General Plan Requirements

Each wholesale service quality plan shall include, at a minimum, the following components:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- a) A comprehensive set of wholesale measures and standards covering all necessary parts of a carrier's interaction with its wholesale customers. These measures and standards should include, but not be limited to, the following activities: pre-ordering, ordering, provisioning, maintenance and repair, billing, and change of management. (See Section 731.310.)
- b) Fully defined business rules on a per measure basis that are sufficient to describe what is being reported by the measure. Business rules shall include an applicable title, detailed definition, any exclusions, applicable standards or benchmarks, levels of disaggregation, and the specific calculation methodology used by the carrier. (See Section 731.315.)
- c) Self-executing remedy provisions deemed sufficient to modify a Level 1 carrier's actions in the event of noncompliance with the standards contained in the plan. (See Section 731.320.)
- d) Established benchmarks and standards on a per measure basis that set forth the minimum performance level the carrier intends to provide. (See Section 731.315.)
- e) Reporting policies and procedures so that all parties understand exactly when and how the Level 1 carrier will report data. (See Section 731.325.) These policies and procedures shall also cover data and remedy restatements in addition to the regular monthly reporting of carrier performance.
- f) A review process scheduled at regular intervals (i.e., month) by which parties may propose changes to the performance measures contained in the wholesale service quality plans as changes occur in the industry.
- g) Audits scheduled at regular intervals (i.e., annually, biannually) to ensure that the data reported by the carrier is valid, reliable and adheres to the published business rules. (See Section 731.330.) The carrier must retain for three years, for purposes of regular audits, the original source data used to calculate the performance measurement results in its original, raw, or unmodified form. Regular audits shall validate both the measure data being reported as well as the remedy calculations.

Section 731.310 Types of Service Covered

The types of service to be covered for a Level 1 carrier shall include, but not be limited to, wholesale service covered in the carrier's most recent wholesale service quality plan approved

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

pursuant to this Part or, if the carrier does not have a wholesale service quality plan approved pursuant to this Part but does have a preexisting plan, wholesale service covered in the carrier's preexisting plan. The services to be covered for a Level 1 carrier shall include wholesale special access service and shall include wholesale special access measures for ordering, provisioning, maintenance and repair. The Commission may, for good cause shown, as is defined in Section 731.105, include wholesale service not yet provided by the carrier (including but not limited to emerging service) or exclude specific wholesale service in approving each carrier's wholesale service quality plan.

Section 731.315 Measures and Standards

Each wholesale service quality plan shall include measures and standards consistent with the requirements of Section 731.305(a). The specific measures and standards included in each wholesale service quality plan shall be as determined by the Commission pursuant to Section 731.505. No measures or standards may be added, modified, or deleted from a wholesale service quality plan approved by the Commission pursuant to Subpart E without the review and approval of the Commission.

Section 731.320 Remedies

Each wholesale service quality plan shall include self executing remedy provisions consistent with the requirements of Section 731.305(c). The specific remedy provisions included in each wholesale service quality plan shall be determined by the Commission in accordance with this Part. The remedy provisions included in the plan filed by a Level 1 carrier shall be consistent with the remedy provisions included in the plan most recently approved pursuant to this Part by the Commission or, if such carrier does not have a wholesale service quality plan approved pursuant to this Part but does have a preexisting plan, the remedy provisions included in such carrier's preexisting plan. No changes may be made to the remedy provisions included in any plan approved by the Commission without the review and approval of the Commission.

Section 731.325 Reporting

- a) Each carrier's wholesale service quality plan shall provide that the Level 1 carrier will report monthly data to the Commission and to each carrier purchasing wholesale service. At a minimum, the monthly data shall include the total number of transactions on a per measure basis, the number of instances in which standards contained in the Level 1 carrier's wholesale service quality plan were not met on a per measure basis, and calculations supporting any remedies paid pursuant to the wholesale service quality plan. Although aggregate data must be made available to the Commission and all carriers purchasing wholesale service, carrier specific

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

data shall only be made available to the Commission and carriers for their own (i.e., the purchasing carrier's) business transactions.

- b) Each carrier's wholesale service quality plan shall indicate the process it will follow each month for reporting, including, without limitation, the date performance data and remedy amounts will be made available. The reporting process shall also include the timelines and procedures the carrier will follow when making data and or remedy restatements.

Section 731.330 Auditing

- a) Each wholesale service quality plan approved by the Commission shall comply with the requirements of Section 731.305(g). All plans must also provide for periodic audits of the wholesale performance data by an independent auditing firm, include the frequency and scope of the required audits, and indicate responsibility for payment of audits. Audits shall be provided for the measures being reported, as well as for any remedy payments. Level 1 carriers shall follow the auditing requirements set forth in their respective wholesale service quality plans. Each plan shall provide for Commission initiated audits, pursuant to Section 8-102 of the Act [220 ILCS 5/8-102], as well as audits initiated by requesting carriers. Payment for Commission-initiated audits shall be pursuant to Section 8-102 of the Act.
- b) Level 1 carriers shall retain all records required to support wholesale performance relative to this Part for at least three years. Audits are necessary to ensure that data reported by the carriers are valid and reliable and that they adhere to the carrier's filed plan.

SUBPART D: PROVISIONS APPLICABLE TO ALL LEVEL 1 CARRIERS

Section 731.400 Applicability of Subpart D

The provisions of Subpart D are applicable to all Level 1 carriers.

Section 731.405 Treatment and Effect of Wholesale Service Emergency Situations

The standards contained in any plan will not be considered to be violated for the period of any delay due to a wholesale service emergency situation. Notwithstanding anything to the contrary in this Part, in those situations where a standard cannot be satisfied at all as a result of a

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

wholesale service emergency situation, the failure to satisfy such standard shall not be deemed to be a violation of the applicable standard set forth in the plan.

Section 731.410 Additional Reporting Requirements

- a) A wholesale service quality plan approved pursuant to Subpart E shall be posted to both the Commission's web site, with a reference and a link to the pertinent carrier's wholesale service quality plan at its web site and the Level 1 carrier's web site no more than 30 days after entry of the Commission's order approving such plan.
- b) Performance relative to a Level 1 carrier's wholesale service quality plan shall be posted to the Level 1 carrier's web site and made available to the Commission and other carriers on a monthly basis. Level 1 carriers shall also make available to the Commission both aggregate and individual carrier performance data and shall make available to other carriers access to the aggregate data and their own performance data.
- c) Additionally, Level 1 carriers shall report the following information monthly to the Commission:
 - 1) The total dollar amount of wholesale service quality remedy payments and credits paid, given and/or assessed;
 - 2) The five highest dollar credit and payment amounts assessed and/or paid on a per measure basis;
 - 3) Any wholesale service quality remedy payments and credits not included in the amount reported under subsection (c)(1) but claimed due or owing by purchasing carriers; and
 - 4) Any changes to previously reported metrics data or remedy payments or credits made by the carrier during the past month and a detailed explanation for why the changes to previously reported metrics data or remedy payments or credits occurred.

Section 731.420 Effect of Interconnection Agreements

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- a) A Level 1 carrier may provide wholesale service that does not conform to its wholesale service quality plan to another carrier pursuant to an interconnection agreement, if subsections (a)(1) through (a)(4) are met:
 - 1) the two carriers negotiated the interconnection agreement or an amendment to their interconnection agreement after September 1, 2004;
 - 2) that interconnection agreement expressly references this Section;
 - 3) that interconnection agreement sets forth how the standards and requirements contained in the Level 1 carrier's wholesale service quality plan do not apply to the carrier-signatories to the interconnection agreement; and
 - 4) the changes in that agreement to the Level 1 carrier's wholesale service quality plan are not contrary to the public interest.
- b) The standards and measures in this Subpart shall apply to: negotiated agreements or amendments to interconnection agreements effective after September 1, 2004; negotiated interconnection agreements that do not expressly reference this Section; and negotiated agreements that do not expressly amend any of the standards and requirements contained in this Subpart.

SUBPART E: COMMISSION REVIEW AND APPROVAL OF
PLANS FOR LEVEL 1 CARRIERS**Section 731.500 Applicability of Subpart E**

The provisions of Subpart E are applicable to all Level 1 carriers.

Section 731.505 Commission Review and Approval of Wholesale Service Quality Plans

- a) Approval. Following hearings on each plan or petition filed or any proceeding commenced pursuant to Section 731.205, the Commission shall approve a wholesale service quality plan for each carrier. The plans approved by the Commission may be those plans as filed by the Level 1 carriers or as modified by the Commission.
- b) Basis for approval. In approving a wholesale service quality plan for each carrier, the Commission shall address and consider each of the following:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 1) Whether the plan contains articulated, pre-determined measures and standards that encompass a comprehensive range of carrier-to-carrier performance;
- 2) Whether each measure has an articulated definition, or "business rule", that sets forth the manner in which the data are to be collected by the carrier, lists any relevant exclusions, and states the applicable performance standards;
- 3) Whether the plan contains a mechanism that detects and sanctions non-compliant performance when it occurs on both an individual measure and aggregate basis;
- 4) Whether the plan subjects the Level 1 carrier to potential monetary liability that provides an incentive to comply with the designated performance standards;
- 5) Whether liability under the plan's enforcement mechanism would actually accrue at significant monetary levels when performance standards are missed;
- 6) Whether the plan contains a self-executing mechanism;
- 7) Whether the plan provides for data to be accurate and it provides that the reported data are able to be audited;
- 8) Whether the plan complies with the requirements set forth in Subparts B, C, D, and E of this Part, including but not limited to Section 731.305.

SUBPART F: OBLIGATIONS OF LEVEL 2 CARRIERS

Section 731.600 Applicability of Subpart F

The provisions of Subpart F are applicable to all Level 2 carriers.

Section 731.605 Types of Service Covered by and Exemption from Reporting Requirements from Subpart F

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Types of service covered. Unless otherwise indicated in this Subpart, the provisions of Subpart F are applicable to a Level 2 carrier to the extent the Level 2 carrier provides or offers the applicable service. Level 2 carriers shall be subject to wholesale service quality standards as provided in this Subpart for the following wholesale services, to the extent the carrier offers or provides the service:

- a) Unbundled local loops;
- b) Interconnection trunks;
- c) Resold local services;
- d) Collocation;
- e) Loss notification; and
- f) Customer service record.

Section 731.610 Measures and Standards under Subpart F

- a) Firm order confirmations
 - 1) Level 2 Carriers shall provide FOCs or reject notices for wholesale service within the following timeframes, as measured from the time of receipt of an accurate and complete service request to the return of an FOC or reject notice:
 - A) Unbundled local loops – within 24 hours
 - B) Interconnection trunks – within 10 business days
 - C) Resold local service – within 24 hours
 - D) Collocation – within 10 business days
 - 2) The start time for requests received after the end of the business day will be the beginning of the next business day.
 - 3) There are two types of reject notices that may be issued by a carrier:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- A) Syntax, which occurs if required fields are not included in a service request; and
 - B) Content, which occurs if invalid data is provided in a field.
- 4) A rejected service request must be corrected and resubmitted before provisioning can begin.
- b) Provisioning
- 1) Level 2 carriers shall provision wholesale service within the following timeframes, as measured from the time of receipt of a complete and accurate service request to completion of the requested service:
 - A) Unbundled local loops – within five business days
 - B) Interconnection trunks – within 30 business days
 - C) Resold local service – within five business days
 - D) Collocation – within 90 business days after a provisioning carrier's receipt of an affirmative written response from the requesting carrier as to the terms of collocation.
 - 2) The required due date is the later of the last day of the interval set forth in subsection (b)(1) or the provisioning date requested by the wholesale customer.
 - 3) The provisioning intervals in subsection (b)(1) will not apply if the Level 2 carrier demonstrates that the requests are not technically feasible, i.e., physically impossible to undertake, and/or that the requested facilities are not available.
 - 4) Except where otherwise agreed to, in writing, by the carriers, when a loop must be conditioned to remove bridge taps and load coils in order to provide a digitally capable loop or HFPL, the providing carrier must provide the conditioned (digitally capable) loop or HFPL within eight business days after receipt of an accurate and complete service request, rather than within five business days as set forth in subsection (b)(1). However, provisioning intervals do not apply to digitally capable loops

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

and HFPL when conditioning of the loop to meet the request would result in a significant degradation of the voiceband service that the Level 2 carrier is providing over that same loop.

- c) Maintenance and repair
 - 1) Level 2 carriers shall clear wholesale out of service trouble reports within the following intervals, as measured from the time of receipt of an accurate and complete trouble report to the time the trouble report is cleared:
 - A) Unbundled local loops – within 24 hours
 - B) Interconnection trunks – within eight hours
 - C) Resold local service – within 24 hours
 - D) Collocation – within eight hours
 - 2) All non-out of service (i.e., service affecting) trouble reports must be cleared by the end of the next business day after receipt of a non-out of service trouble report.
 - 3) For a trouble report to be considered complete, the wholesale customer must provide the carrier:
 - A) the end user customer's telephone number;
 - B) the carrier's circuit identification number; and
 - C) a detailed description of the trouble conditions and other trouble prescreening information.
- d) Loss notifications. Upon receipt of information that a customer has switched carriers, the customer's new Level 2 carrier shall provide loss notification within the following timeframes:
 - 1) UNE-platform – within 24 hours
 - 2) Resale – within 24 hours

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- e) Customer service record (CSR). Level 2 carriers shall provide CSRs to the carriers requesting the CSR within 24 hours after the receipt of that request.
- f) The standards set forth in this Section shall not be considered to be violated for the period of any delay resulting from any of the following:
 - 1) A negligent or willful act on the part of the wholesale customer or the end user retail customer;
 - 2) A malfunction of equipment owned or operated by the wholesale customer or the end user retail customer;
 - 3) A wholesale service emergency situation or a situation extended by a wholesale service emergency situation to the extent that the wholesale service emergency situation extends another type of situation;
 - 4) The wholesale customer missing an appointment, provided that the violation is not further extended by the carrier;
 - 5) A wholesale customer request to change the scheduled appointment, provided that the violation is not further extended by the carrier;
 - 6) A carrier's right to refuse service to a wholesale customer as provided in an interconnection agreement, a wholesale service quality plan, or under applicable federal or State law; or
 - 7) A lack of facilities where a wholesale customer requests service at a geographically remote location; a wholesale customer requests service in a geographic area where the carrier is not currently offering service; or there are insufficient facilities to meet the wholesale customer's request for service, subject to the carrier's obligation for reasonable facilities planning and the wholesale customer's obligation for forecasting.
- g) Notwithstanding anything to the contrary in this Subpart, in those situations where a standard cannot be satisfied at all as a result of the occurrence of any of the causes identified in subsection (f), the failure to satisfy such standard shall not be deemed to be a violation of the applicable standard set forth in this Section.

Section 731.615 Remedies under Subpart F

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

If a Level 2 carrier fails to comply with Section 731.610, it shall provide credits to the purchasing carrier in the following amounts:

- a) For firm order confirmation and reject notice failures, Level 2 carriers shall provide credits equal to 20% of the monthly recurring charge for the service covered in Section 731.610(a);
- b) For provisioning failures, Level 2 carriers shall provide credits equal to 20% of the monthly recurring charge for each day beyond the timeframe set forth in Section 731.610(b) that the Level 2 carrier fails to provision a wholesale service covered in Section 731.610(b);
- c) For maintenance and repair failures, Level 2 carriers shall provide credits equal to 20% of the monthly recurring charge for each day beyond the timeframe set forth in Section 731.610(c)(1) and (c)(3) that the Level 2 carrier fails to clear a wholesale out of service trouble report for the services covered in Section 731.610(c)(1) and (c)(3) and 10% of the monthly recurring charge for every eight hours beyond the timeframe set forth in Section 731.610(c)(2) and (c)(4) that the Level 2 carrier fails to clear a wholesale out of service trouble report for the services covered in Section 731.610(c)(2) and (c)(4);
- d) For loss notification failures, Level 2 carriers shall provide a credit of \$1 per failure; and
- e) For customer service record failures, Level 2 carriers shall provide a credit of \$1 per failure.

Section 731.620 Reporting under Subpart F

- a) Each Level 2 carrier shall report monthly results on a quarterly basis to the Commission. At a minimum, the information reported shall include:
 - 1) The total dollar amount of wholesale service quality credits on a per measure basis;
 - 2) Any wholesale service quality credits not included in the amount reported under subsection (a)(1) but claimed due or owing by purchasing carriers;

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 3) The level of performance on an aggregate basis by measure (or as a whole with respect to all measures for service provided to all wholesale customers); and
 - 4) The top 3 carriers receiving wholesale service quality credits from the Level 2 carrier.
- b) Each Level 2 carrier shall also report monthly data on a quarterly basis to carriers purchasing wholesale services. At a minimum, the monthly data shall include the number of reportable transactions, the number of instances in which standards contained in Section 731.610 were not met, and all calculations supporting remedies paid as a result of Section 731.615.
 - c) Each carrier shall provide to the Commission, on a triennial basis (to be calculated three years from September 1, 2004), a business rule document for each measure it reports. These business rule documents describe what is being reported by the measure and compliant with the standards set out in Section 731.610. The business rules shall include an applicable title, detailed definition, any exclusions, levels of disaggregations and the specific calculation methodology used by the carrier.

Section 731.625 Auditing under Subpart F

- a) Carriers purchasing wholesale service from a Level 2 carrier may request an independent audit of the reported results. To the extent the independent audit confirms the specific concern of the carrier purchasing wholesale service from a Level 2 carrier, as specifically identified in writing to the Level 2 carrier prior to requesting the audit, the Level 2 carrier shall be responsible for the cost of the independent auditor associated with the specific concern identified in writing prior to the audit. If the independent auditor does not confirm the concern of the carrier purchasing wholesale service from a Level 2 carrier, the carrier purchasing wholesale services will be responsible for the cost of the independent audit. Any dispute over payment of audit costs will be resolved by the Commission pursuant to a petition filed with the Commission by either party pursuant to 83 Ill. Adm. Code 200.
- b) Carrier-initiated audits of a Level 2 carrier's records shall be limited to no more than two per calendar year per purchasing carrier.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- c) A Level 2 carrier shall make all records required by this Part available to the Commission or its authorized representatives at any time upon request. A carrier shall make customer proprietary network information available to the Commission. A carrier shall retain all records required by this Part for at least three years.

Section 731.630 Effect of Interconnection Agreement

If a Level 2 carrier provides wholesale service to another carrier pursuant to an interconnection agreement and those carriers have negotiated the interconnection agreement or an amendment to the interconnection agreement after September 1, 2004 that expressly references this Section and it amends any of the standards and requirements contained in this Subpart, those standards and requirements contained in this Subpart shall not apply to such carriers if, but only to the extent that, it is so provided in the interconnection agreement or amendment, and provided further that the changes from or to the standards and requirements contained in this Subpart are not contrary to the public interest. The standards and measures in this Subpart shall apply to: negotiated agreements or amendments to interconnection agreements effective after September 1, 2004; negotiated interconnection agreements that do not expressly reference this Section; and negotiated agreements that do not expressly amend any of the standards and requirements contained in this Subpart.

Section 731.635 Application of Level 1 Requirements to Level 2 Carriers and Conversion to Level 1

If a Level 2 carrier is asked to or required to provide wholesale services other than those set forth in Section 731.610, it must petition the Commission for a determination as to whether it should be required to comply with Level 1 requirements for the provision of the service or services in question.

- a) A Level 2 carrier may be required to comply with some or all of the Level 1 requirements established in Subparts B, C, D, and E of this Part only after the Commission considers and rules upon the following items:
- 1) The technical feasibility of compliance with each Subpart B, C, D, and E requirement;
 - 2) The economic feasibility of compliance with each Subpart B, C, D, and E requirement;

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 3) The expected volume of wholesale service activity to be provisioned by the Level 2 carrier;
 - 4) Whether the benefits expected to accrue to requesting carriers justify the costs expected to be incurred by the provisioning carrier to comply with each Subpart B, C, D, and E requirement; and
 - 5) With which Subpart B, C, D, and E requirements that carrier must comply and within what time period.
- b) A carrier directed pursuant to a Commission order to comply with all of the requirements of Subparts B, C, D, and E shall be a Level 1 carrier effective 90 days after the date of the Commission's order unless a different conversion date is specified in the Commission's order. A carrier directed pursuant to a Commission order to comply with some but not all of the requirements of Subparts B, C, D, and E shall remain a Level 2 carrier, but shall, unless a different time period is provided in the Commission's order, comply with such Level 1 requirements as directed by the Commission commencing 90 days after the date of the Commission's order.
- c) In any proceeding to determine whether a carrier should be required to comply with some or all of the Level 1 requirements established in Subparts B, C, D, and E of this Part, the Commission may order or establish an interim wholesale service quality plan and determine its effective date.

SUBPART G: PROVISIONS APPLICABLE TO LEVEL 3 CARRIERS

Section 731.700 Applicability of Subpart G

The provisions of Subpart G are applicable to all Level 3 carriers. Subparts B, C, D, E, and F of this Part shall not apply to LECs with rural exemptions pursuant to section 251(f) of the federal Telecommunications Act.

Section 731.705 Conversion to Level 2

- a) A carrier whose rural exemption is terminated by a Commission order pursuant to section 251(f) of the federal Telecommunications Act will become a Level 2 carrier and shall comply with all of the Level 2 requirements established in Subpart F of this Part effective 90 days after the date of the Commission's order,

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

unless the Commission makes a determination that there is good cause to delay and that a different time period is necessary.

- b) Notwithstanding subsection (a), a Level 3 carrier whose rural exemption is terminated by a Commission order pursuant to section 251(f) of the federal Telecommunications Act may petition the Commission for an exemption from some or all of the Level 2 requirements established in Subpart F of this Part. The burden of proof in establishing the right to an exemption under this subsection shall be upon the petitioner. The petition shall include facts demonstrating that the requested exemption would not harm consumers and will not impede the development or operation of a competitive market. In ruling on any such petition, the Commission shall consider and rule upon the following items, when applicable:
- 1) The technical feasibility of compliance with each Subpart F requirement;
 - 2) The economic feasibility of compliance with each Subpart F requirement;
 - 3) The expected demand for wholesale service covered under Subpart F;
 - 4) Whether the benefits accrued to competing carriers justify the costs incurred by that carrier necessary to comply with each Subpart F requirement;
 - 5) With which Subpart F requirements that carrier must comply and within what time period; and
 - 6) Whether the carrier needs to comply with Subpart F if the carrier enters into an agreement with a competing carrier whereby the competing carrier agrees to accept different wholesale service quality standards than those contained in Subpart F.

SUBPART H: PROVISIONS APPLICABLE TO LEVEL 4 CARRIERS

Section 731.800 Applicability of Subpart H

The provisions of Subpart H are applicable to all Level 4 carriers.

Section 731.805 Types of Service Covered by and Exemption from Certain Subparts

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Services Covered. Level 4 carriers shall be subject to the wholesale service quality standards as provided in this Subpart for the following services, to the extent the carriers offer or provide the service:

- a) Customer service record;
- b) Unbundled loop return; and
- c) Loss notification.

Section 731.810 Measures and Standards under Subpart H

Level 4 carriers shall be subject to the following wholesale service measures and standards as provided for the following types of service, to the extent the carriers offer or provide the service:

- a) Unbundled loop return for less than 20 loops – within 24 hours
- b) Unbundled loop return for 20 or more loops – within 48 hours
- c) Loss notification – within 24 hours
- d) Customer service record – within 24 hours

Section 731.815 Remedies under Subpart H

- a) If a Level 4 carrier fails to comply with Section 731.810, it shall provide credits to the purchasing carrier in the following amounts:
 - 1) Unbundled loop return – \$1 per failure
 - 2) Customer service record failures – \$1 per failure
 - 3) Loss notification – \$1 per failure
- b) Subparts B, C, D, E, F, and G of this Part shall not apply to Level 4 carriers (LECs without obligations pursuant to section 251(c) of the federal Telecommunications Act and that are not Level 3 carriers).

Section 731.820 Application of Level 2 Requirements to Level 4 Carriers and Conversion to Level 2

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- a) If a Level 4 carrier receives a bona fide request for wholesale service and either agrees to provide that service or is obligated to provide that service under the Act or the federal Telecommunications Act, that carrier may be required, after notice and hearing, to comply with some or all of the Level 2 requirements established in Subpart F. In connection with any such hearing, the Commission shall consider and rule upon each of the following items:
- 1) The technical feasibility of compliance with each Subpart F requirement;
 - 2) The economic feasibility of compliance with each Subpart F requirement;
 - 3) The expected demand for wholesale service covered under Subpart F;
 - 4) Whether the benefits accrued to competing carriers justify the costs incurred by that carrier necessary to comply with each Subpart F requirement;
 - 5) With which Subpart F requirements that carrier must comply and within what time period; and
 - 6) Whether the carrier needs to comply with Subpart F if the carrier enters into an agreement with a competing carrier whereby the competing carrier agrees to accept different wholesale service quality standards than those contained in Subpart F.
- b) A carrier directed pursuant to a Commission order to comply with all of the requirements of Subpart F shall become a Level 2 carrier effective 90 days after the date of the Commission's order unless the Commission determines that good cause for delay exists and a different time period is necessary and a different conversion date is specified in the Commission's order. A carrier directed pursuant to a Commission order to comply with some but not all of the requirements of Subpart F shall remain a Level 4 carrier, but shall, unless the Commission determines that a different time period is necessary and a different time period is provided in the Commission's order, comply with such Level 2 requirements as directed by the Commission commencing 90 days after the date of the Commission's order.

SUBPART I: PROVISIONS APPLICABLE TO ALL CARRIERS

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Section 731.900 Applicability of Subpart I

Subpart I is applicable to all carriers.

Section 731.905 Notice of Termination of Wholesale Service

Except where otherwise agreed to, in writing, by the carriers, no provisioning carrier offering or providing wholesale service to a requesting carrier shall terminate, discontinue, or abandon the service once initiated except upon at least 35 days prior written notice (the termination notice) to the Commission and the requesting carrier. Notwithstanding anything to the contrary in this Section, no termination notice shall be required for interruptions in service due to wholesale service emergency situations. Nothing in this Section shall be construed to abrogate or diminish the rights and obligations of a carrier under the Act or Commission rules (including, without limitation, Section 13-406 of the Act [220 ILCS 5/13-406] and 83 Ill. Adm. Code 735).

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: General Licensee Rules
- 2) Code Citation: 11 Ill. Adm. Code 1313
- 3) Section Number: 1313.70 Adopted Action:
Amended
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective date of amendment: August 22, 2004
- 6) Does this amendment contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) A copy of this adopted amendment, including any material incorporated by reference, is available for public inspection at the IRB Central Office, 100 West Randolph, Suite 11-100, Chicago, Illinois, during the hours of 9:00 a.m. and 5:00 p.m.
- 9) Notice of Proposal published in Illinois Register: 28 Ill. Reg. 5627 – 4/2/04
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: In Section 1313.70(a), IRB agreed to state the minimum and maximum fines that could be imposed on a trainer, when the stewards would waive the fine (emergencies such as inclement weather, medical emergency, or trainer vehicle breakdown or accident), and the types of documentation that the stewards would require for proving the emergency (emergency room report, towing or repair bill, or police report). Also in Section 1313.70(a), IRB clarified that the post time of the race being referenced is the scheduled post time, as the actual post time can be moved forward in cases of inclement weather or track quality concerns.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No. The companion emergency amendment expired August 20, 2004.
- 14) Are there any other amendments pending on this Part? No

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 15) Summary and purpose of amendment: This rulemaking repeals the current 4:00 p.m. deadline for harness horses shipping to the racetrack from off-site facilities on the day of the race. The 4:00 p.m. deadline is replaced by a four to six hour deadline. The 4:00 p.m. deadline was inequitable because it penalized horses that were scheduled to race in later races and favored horses scheduled to race in the first few races. This adopted rulemaking requires that, prior to their scheduled post time (as determined by the Board), harness horses must report to the paddock four to six hours in advance of their particular race.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Mickey Ezzo
Illinois Racing Board
James Thompson Center
100 W. Randolph St., Suite 11-100
Chicago IL 60601
312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

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

PART 1313
GENERAL LICENSEE RULES

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

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

SOURCE: Published in Rules and Regulations of Harness Racing, (original date not cited in publication); passed July 11, 1972; amended April 13, 1973; amended June 11, 1973; amended October 25, 1973, filed December 17, 1973 codified at 5 Ill. Reg. 10937; amended at 11 Ill. Reg. 14816, effective August 24, 1987; amended at 11 Ill. Reg. 20205, effective December 31, 1987; amended at 18 Ill. Reg. 15442, effective September 30, 1994; emergency amendment at 28 Ill. Reg. 5713, effective March 24, 2004, for a maximum of 150 days; emergency expired August 20, 2004; amended at 28 Ill. Reg. 12119, effective August 22, 2004.

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

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

of record shall be subject to a fine not less than \$200 and not more than \$500. The fine may be waived if the stewards determine that a verifiable emergency (for example, inclement weather, medical emergency or trainer vehicle breakdown or accident) prevented the trainer from getting the horse to the racetrack at the designated deadline. The trainer shall submit appropriate written documentation of the emergency as determined by the stewards (for example, emergency room report, towing or repair bill or police report). ~~at the time prescribed by the presiding judge, but at least one hour prior to post time of the race in which the horse is to compete.~~ Except for warm-up scores, no horse shall leave the paddock until called to post.

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

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

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

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

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

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

(Source: Amended at 28 Ill. Reg. 12119, effective August 22, 2004)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Procedures and Standards
- 2) Code Citation: 92 Ill. Adm. Code 1001
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1001.30	Amend
1001.70	Amend
1001.80	Amend
1001.100	Amend
1001.110	Amend
1001.300	Amend
1001.320	Amend
1001.340	Amend
1001.400	Amend
1001.410	Amend
1001.420	Amend
1001.430	Amend
1001.440	Amend
1001.441	Amend
1001.443	Amend
1001.450	Amend
1001.460	Amend
- 4) Statutory Authority: Subpart A implements Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implements Chapter 7 and is authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implements Sections 6-205(c) and 6-206(c)3 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D is authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implements Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/ 2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart F implements Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and is authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8].
- 5) Effective date of amendments: September 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 7) Does this rulemaking contain incorporations by reference? Yes. The Department incorporates by reference the Jellinek chart. (E.M. Jellinek, The Disease Concept of Alcoholism, Hillhouse Press (1960, no further amendments or additions included)). See the amendments to §1001.400(b).
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal Springfield office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: This proposed rulemaking was originally published at 28 Ill. Reg. 6033; April 16, 2004 (Issue 16).
- 10) Has JCAR issued a Statement of Objection to these Amendments? No
- 11) Differences between proposal and final version: Some revisions to the original proposal were made according to recommendations made by JCAR in its "Identical First Notice Line Numbered Version", received by the Department of Administrative Hearings on or about 14 April 2004, and in the "Second Notice Changes" issued by JCAR and received here on or about 12 July 2004.

Please note that this rulemaking added titles to all sections amended, beginning with §1001.30, in order to facilitate the location of information. In other words, this Part has become so voluminous that it has become increasingly difficult to quickly find a specific rule when one is looking for it. The titles will, hopefully, make it easier to locate specific rules. These new titles are being underlined in order to assist the reader in locating the subject matter of a rule.

Furthermore, additional changes were made as a result of our internal review of the Proposed Amendments and/or the JCAR's suggested revisions. Those changes are as follows:

In Subpart A:

- Clarified that the Department will not accept Motions to Reconsider, but will accept a Motion to Correct a Material Misstatement of Fact after issuing a decision made in a formal hearing. Added a fee for the filing for such requests. See §§1001.80 and .110(g).
Note that the First Notice stated that the Department would accept Motions to Reconsider upon the payment of a filing fee. Upon reflection, we decided that we

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

should instead state more precisely the nature of post-hearing motions that would be considered;

In Subpart C:

- The First Notice proposed to strike §1001.300(b)(4). Upon reflection, we decided to leave this subparagraph in subsection (4) because an informal hearing officer would not have access to the extensive documentation which forms the basis for a pre-conviction revocation, and which is necessary to conduct a thorough examination of a petitioner;
- Amended §1001.300(c)(3) so that a petitioner can renew a permit at an informal hearing after being sentenced to court supervision for a petty traffic offense. During the first notice period, upon reflection, we decided to include the citations to the petty offense penalty provisions in the Vehicle Code;

In Subpart D:

- Added to §1001.400 a “Statement of Principle and Purpose” in response to what the Department of Administrative Hearings considers a disturbing trend in recent appellate court decisions. See, for example, Mohr v. White, (4th Dist., 2001) 324 Ill. App. 3d 643, 756 N.E.2d 434, and cases which cite it as authority. The Department believes that the courts are substituting their judgment for that of the Department without a sufficient understanding of the hearing process and the disease process of alcoholism/chemically dependency. It is hoped that this rule will reverse this trend, and thereby alleviate the need for more drastic changes in the hearing process. Note that this statement was inserted into §1001.440 in the First Notice. However, as a result of the JCAR proposed revisions to the statement and our review of the rulemaking during the first notice period, we concluded the intent of the statement would be stated most clearly by inserting it in the first section of Subpart D;
- As a result of our review of the rulemaking during the first notice period, we came to the conclusion that we should further clarify the “75% Rule” in §1001.430(i), by describing what we mean by an “exigent circumstance”;
- As a result of our review of the rulemaking during the first notice period, we came to the conclusion that we should codify our well-established policy that it is improper to reclassify a petitioner’s alcohol/drug use except in cases where the evaluator believes that an error was made in the previous evaluation(s). See new subsection 1001.440(b)(6)(B)(3);
- Added that a victim’s impact statement may be considered as a factor in deciding whether to issue driving relief. See §1001.440(d)(19);

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- As a result of our review of the rulemaking during the first notice period, we came to the conclusion that we should clarify the type of evidence needed to document an alcoholic/chemically dependent petitioner's attendance of support/recovery group meetings. See §1001.440(g)(1);
 - Clarified the requirement that a member of Alcoholics Anonymous submit a letter from his/her sponsor. As a result of our review of the rulemaking during the first notice period, we came to the conclusion that we should further clarify the manner in which this evidence is to be utilized by the Secretary and his hearing officers. See §1001.440(j);
 - As a result of our internal review of the rulemaking during the first notice period, we came to the conclusion that we should further clarify the BAIID permittee's responsibilities when he/she wants to have the interlock device removed from their vehicle before the expiration of their permit. See §1001.441(h)(5) (a new subparagraph) and (j)(2);
 - As a result of our internal review of the rulemaking during the first notice period, we came to the conclusion that we should amend and further clarify the grounds for canceling a BAIID permit when a permittee breaks his/her promise to maintain abstinence. We have come to the conclusion that we should limit the immediate cancellation sanction for resuming the use of alcohol to those BAIID permittees are required to abstain due to their High Risk-Dependent classification. This will allow us to keep in the BAIID program those BAIID permittees who expressed a resolve to maintain abstinence, but are not required to do so by the rules of the Secretary of State (due to the classification of their alcohol/drug use), and whose monitor reports reflect that they have resumed the use of alcohol. Rather than cancel the permits of these permittees, the information will now be made part of their record of performance, and will be considered by the hearing officer and the Secretary of State at their next formal hearing. See §1001.441(i)(5) and (k).
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any other proposed amendments to this Part pending? No.
- 15) Summary and purposes of amendments: These amendments achieve the following objectives:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- Respond to amendments made to the Illinois Vehicle Code, such as those made in P.A. 92-343;
- Clarify the intent of several rules, in light of our experience with the day-to-day application of those rules and/or statutory amendments and recent court decisions interpreting those rules;
- Respond to increasing numbers of petitions “to reconsider” decisions issued in formal hearings (with the intention of eliminating a substantial number of these petitions);
- Respond to technological advances now available to the Department of Administrative Hearings, in light of recent budgetary constraints and effects of the early retirement initiative.

Additional information on these objectives is also recited in paragraph #11 above.

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

Marc Christopher Loro, Legal Advisor
Department of Administrative Hearings
200 Howlett Building
Springfield, Illinois 62756
217/785-8245
mloro@ilsos.net

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1001
PROCEDURES AND STANDARDS

SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

Section

- 1001.10 Applicability
- 1001.20 Definitions
- 1001.30 Right to Counsel
- 1001.40 Appearance of Attorney
- 1001.50 Special Appearance
- 1001.60 Substitution of Parties
- 1001.70 Commencement of Actions; Notice of Hearing
- 1001.80 Motions
- 1001.90 Form of Papers
- 1001.100 Conduct of Formal Hearings
- 1001.110 Orders
- 1001.120 Record of Hearings
- 1001.130 Invalidity

SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

Section

- 1001.200 Applicability
- 1001.210 Definitions
- 1001.220 Hearings: Notice; Location; Procedures; Record
- 1001.230 Rules of Evidence
- 1001.240 Scope of Hearings
- 1001.250 Decisions and Orders
- 1001.260 Rehearings
- 1001.270 Judicial Review
- 1001.280 Invalidity

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS IN
DRIVER'S LICENSE SUSPENSIONS AND REVOCATIONS

Section

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

1001.300	Applicability
1001.310	Definitions
1001.320	Right to Representation
1001.330	Records and Reports
1001.340	Location of Hearings
1001.350	Duties and Responsibilities
1001.360	Decisions
1001.370	Invalidity

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section

| 1001.400	Applicability; Statement of Principle and Purpose
1001.410	Definitions
1001.420	General Provisions Relating to the Issuance of Restricted Driving Permits
1001.430	General Provisions for Reinstatement of Driving Privileges after Revocation
1001.440	Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations
1001.441	Procedures for Breath Alcohol Ignition Interlock Device Conditioned RDPs
1001.442	BAIID Providers Certification Procedures and Responsibilities; Approval of Breath Alcohol Ignition Interlock Devices; Inspections; BAIID Installer's Responsibilities; Disqualification of a BAIID Provider
1001.443	Breath Alcohol Ignition Interlock Device Multiple Offender – Compliance with Interlock Program
| 1001.444	Installer's Responsibilities (Repealed)
1001.450	New Hearings
1001.460	Requests for Modification of Revocations and Suspensions
1001.470	Renewal, Correction and Cancellation of RDPs
1001.480	Unsatisfied Judgment Suspensions
1001.485	Reinstatement Application Based Upon Issuance of Drivers License in a State Which is a Member of the Driver License Compact
1001.490	Invalidity

SUBPART E: FORMAL MEDICAL HEARINGS

Section

1001.500	Applicability
1001.510	Definitions

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 1001.520 Procedure
- 1001.530 Conduct of Medical Formal Hearings
- 1001.540 Subsequent Hearings

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES;
PERSONS UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT
HEARINGS; RESTRICTED DRIVING PERMITS

Section

- 1001.600 Applicability
- 1001.610 Definitions
- 1001.620 Burden of Proof
- 1001.630 Implied Consent Hearings; Religious Exception
- 1001.640 Implied Consent Hearings; Medical Exception
- 1001.650 Rebuttable Presumption
- 1001.660 Alcohol and Drug Education and Awareness Program
- 1001.670 Petition for Restricted Driving Permits
- 1001.680 Form and Location of Hearings
- 1001.690 Invalidity

SUBPART G: MOTOR VEHICLE FRANCHISE ACT

Section

- 1001.700 Applicability
- 1001.710 Definitions
- 1001.720 Organization of Motor Vehicle Review Board
- 1001.730 Motor Vehicle Review Board Meetings
- 1001.740 Board Fees
- 1001.750 Notice of Protest
- 1001.760 Hearing Procedures
- 1001.770 Conduct of Protest Hearing
- 1001.780 Mandatory Settlement Conference
- 1001.785 Technical Issues
- 1001.790 Hearing Expenses; Attorney's Fees
- 1001.795 Invalidity

[1001.APPENDIX A BAIID Regions and Minimum Installation/Service Center Site Location Guidelines \(Repealed\)](#)

AUTHORITY: Subpart A implements Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and is

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implements Chapter 7 and is authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implements Sections 6-205(c) and 6-206(c)3 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D is authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implementing Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart E implements Sections 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, and 6-908 and is authorized by Sections 2-103, 2-104, 6-906, and 6-909 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, 6-908 and 6-909]. Subpart F implements Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and is authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8]. Subpart G implements and is authorized by the Motor Vehicle Franchise Act [815 ILCS 710].

SOURCE: Adopted and codified at 7 Ill. Reg. 7501, effective June 17, 1983; amended at 8 Ill. Reg. 4220, effective April 1, 1984; emergency amendment at 9 Ill. Reg. 17030, effective October 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4558, effective March 18, 1986; amended at 11 Ill. Reg. 17844, effective October 15, 1987; amended at 13 Ill. Reg. 15803, effective October 1, 1989; amended at 14 Ill. Reg. 2601, effective February 15, 1990; amended at 14 Ill. Reg. 16041, effective October 1, 1990; emergency amendment at 16 Ill. Reg. 19926, effective December 8, 1992, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 2047, effective January 27, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6274, effective May 1, 1993; amended at 17 Ill. Reg. 8528, effective June 1, 1993; emergency amendment at 18 Ill. Reg. 7916, effective May 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15127, effective September 21, 1994; emergency amendment at 19 Ill. Reg. 54, effective January 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6667, effective May 1, 1995; emergency amendment at 20 Ill. Reg. 1626, effective January 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8328, effective June 12, 1996; emergency amendment at 20 Ill. Reg. 9355, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15773, effective November 28, 1996; amended at 23 Ill. Reg. 692, effective January 15, 1999; amended at 24 Ill. Reg. 19257, effective December 15, 2000; expedited correction at 25 Ill. Reg. 7352, effective December 15, 2000; emergency amendment at 25 Ill. Reg. 13790, effective October 15, 2001, for a maximum of 150 days; emergency expired on March 13, 2002; emergency amendment at 25 Ill. Reg. 14979, effective November 9, 2001, for a maximum of 150 days; emergency expired on April 7, 2002; amended at 26 Ill. Reg. 9380, effective June 13, 2002; amended at 26 Ill. Reg. 13347, effective August 21, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 14706, effective September 20, 2002, for a maximum of 150 days; emergency expired on February 16, 2003; amended at 27 Ill. Reg. 5969, effective

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

March 31, 2003; amended at 27 Ill. Reg. 13577, effective August 1, 2003; amended at 28 Ill. Reg. 12123, effective September 1, 2004.

SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

Section 1001.30 Right to Counsel

- a) Attorneys Must be Licensed; 711 Students. Any party may appear and be heard through an attorney at law licensed to practice in the State of Illinois, ~~or and~~ any law student licensed under Supreme Court Rule 711, in any hearing in any matter involving the exercise of legal skill or knowledge. [ILCS S. Ct. Rule 711-]
- ~~b)4)~~ Pro Hac Vice. Attorneys admitted to practice in states other than the State of Illinois may appear and be heard ~~by special leave of the hearing officer appointed to conduct the hearing,~~ upon the attorney's verbal representations or written documentation as to the attorney's admittance, either by special leave of the Director of the Department or pursuant to an Order pro hac vice, entered by a judge of the circuit court of the county in which the hearing is conducted.
- ~~c)2)~~ Pro Se. A natural person may appear and be heard on his or her own behalf.
- ~~d)3)~~ Corporations. A corporation, association, or partnership may appear and present evidence by any bona fide officer, employee, or representative.
- ~~b)~~ ~~Only an attorney properly licensed or any law student licensed under Supreme Court Rule 711 shall represent anyone else in any hearing in any matter involving the exercise of legal skill or knowledge.~~
- e) The standard of conduct shall be the same as before the Courts of Illinois.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.70 Commencement of Actions; Notice of Hearing

- a) Petition; Notice of Hearing. A contested case is commenced by the Office, either after the written request of the petitioner or on the Office's initiative, by service of a Notice of Hearing in accordance with Section 2-114, within the time limitation contained in Sections 2-118(a) and (b) and 3-402.B(7)(a) and (b), as applicable, of the Illinois Driver Licensing Law of the Illinois Vehicle Code (Code) [625 ILCS 5/2-114, 2-218(a) and (b), and 3-402.B(7)(a) and (b)] upon the respondent.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

b) Filing Fee

- 1) ~~A Effective 15 October 2001~~, a petition for a hearing will not be accepted for filing unless it is accompanied by a fee of \$50, as provided in [Sections §§ 2-118 and 3-402.B\(7\)\(a\)](#) of the Illinois Vehicle Code. This filing fee must be submitted in the form of a money order, a check, or a credit card charge (with a pre-approved card), made payable to the Secretary of State.
- 2) This filing fee will not be refunded to the party requesting a hearing if the party withdraws from the hearing or defaults.
- 3) In cases where a hearing is continued, the party requesting the hearing will not be required to submit another filing fee.
- 4) In cases where the party requesting a hearing withdraws or defaults, the party will be required to submit another filing fee before another hearing will be scheduled.

c) The Notice of Hearing shall include:

- 1) The names and addresses of all known parties, petitioner and respondent, including the department initiating the hearing;
- 2) Whether the hearing is at the request of the petitioner or the Department;
- 3) The time, date, and place of hearing;
- 4) A short and concise statement of facts (as distinguished from conclusions of law or a mere recitation in the words of the statute) alleging the act or acts done by each petitioner or, where appropriate, respondent; the time, date, and place each such act was done or a short and concise statement of the matters asserted; and the rule, statute, or constitutional provision, if any, alleged to have been violated, or otherwise involved in the proceeding; and the relief sought by the petitioner party;
- 5) A statement to each party that:
 - A) Such party may be represented by legal counsel; may present

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

evidence; may cross-examine witnesses and otherwise participate in the hearing.

- B) Failure to so appear shall constitute a default, unless such party has, upon due notice to other parties, moved for and obtained a continuance from the hearing officer.
- C) Delivery of notice to the designated representative of a party constitutes service upon the party.
- D) A petitioner who has an open revocation for reckless homicide or aggravated driving under the influence which involved a fatality must submit, with his or her petition for driving relief, either a copy of the Order of the circuit court which states the sentence received upon conviction, certified by the Clerk of the Court, or a document from the Department of Corrections which reflects: the offense for which the petitioner was imprisoned; the date of release from imprisonment; and the terms of release or parole. For the purpose of determining a petitioner's eligibility for reinstatement pursuant to Section 6-208(b)1 of the Code, and for the issuance of a restricted driving permit pursuant to Sections 6-205(c) and 6-206(c)3 the date of release from imprisonment refers to the imprisonment on the conviction for the offense and does not include release from imprisonment for a violation of parole or probation. It is the responsibility of the petitioner to provide documentation which clearly reflects the date of his/her release from imprisonment.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.80 Motions

- a) All motions shall be made in writing and shall set forth the relief or order sought and shall be filed with the Department at the earliest time to be considered by the hearing officer. Motions based on matter which does not appear of record shall be supported by affidavit. Motions may be presented by a party to obtain appropriate relief, such as to dismiss the proceedings, to add necessary parties, or to extend time for compliance of an order.
- b) The Department will not consider Motions to Reconsider a decision made or

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Order entered in a formal hearing. The proper avenue of relief is to file a complaint under the Administrative Review Law. The Department will, however, accept a Motion to Correct a Material Misstatement of Fact made in an Order. Such a motion must be submitted within 30 days after the date of the Order, shall recite with particularity the nature of the material misstatement of fact, and shall be accompanied by a filing fee of \$20, in the manner and form as provided in Section 1001.70.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.100 Conduct of Formal Hearings

- a) Location; Open to Public; Out-of-state Petitioners. All hearings conducted in any proceeding shall be open to the public. Pursuant to statute, formal hearings may be conducted in Springfield, Chicago, Joliet, Mt. Vernon, or such other locations as agreed upon by the Secretary and the petitioner/respondent.
- 1) In petitions for driving relief, petitioners who have permanently relocated outside of the State of Illinois and petitioners who are still residents but are temporarily residing outside the State of Illinois may make, except as provided in subsection (a)(2), written application in lieu of returning to Illinois for a formal hearing. These petitioners shall be deemed to have waived the right to appear in person. Out-of-state petitioners must initially submit the filing fee authorized by §2-118 of the Illinois Vehicle Code and Section 1001.70(b)(1) of this Subpart A, and evidence of their residency, such as, but not limited to, voter's registration, income tax returns, apartment rental leases, mortgage contracts, employment verification, utility and/or telephone bills, etc. The Department reserves the discretion to reject out-of-state petitions which fail to provide this evidence or establish residency. The Department also reserves the discretion to reject an out-of-state petition if there is evidence that the petitioner is regularly present in the State of Illinois, such as through work, school, or family contacts, but not limited thereto, and is capable of attending a hearing in person in a timely manner.
 - 2) Out-of-state petitioners who reside within 30 miles of the Illinois border shall be required to attend a hearing in person, unless the petitioner shows good cause for not being able to attend in person. Good cause is shown when it is demonstrated by a written statement that the petitioner cannot attend a formal hearing in person due to economic, physical, or medical

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

reasons. Mere inconvenience does not constitute good cause.

- 3) Except as provided in Sections 1001.430(k) and 1001.440(o), out-of-state petitioners must submit at a minimum all documentation and information required by Subpart D of this Part, as well as a sworn Out-Of-State Petitioner's Affidavit which provides the information otherwise required by the Secretary, at a formal hearing.
 - 4) A petition for an out-of-state formal hearing is regarded as being filed when the Department accepts, as fully completed, the documentation required by subsection (a)(3). The Department will inform the petitioner of this fact by a dated letter posted in the regular mail. Pursuant to §2-118 of the Code, the petitioner's file will be assigned to a hearing officer within 90 calendar days from the date of filing. A final Order will be entered no more than 90 days after it is assigned to a hearing officer.
- b) **Parties to a Hearing; Disqualification of Hearing Officer.** Every hearing shall be presided over by a hearing officer duly appointed by the Secretary. The Secretary may also appoint a representative to appear and participate in the hearing on his/her behalf. Prior to the taking of evidence, the petitioner/respondent may request disqualification of the hearing officer by making a motion for disqualification on the record, stating the specific grounds upon which it is alleged that a fair and impartial hearing cannot be afforded the petitioner/respondent by the hearing officer. The hearing officer will rule upon the motion. If the motion is denied, the hearing will proceed, or the petitioner may withdraw from the hearing. If the motion is granted, the case shall be transferred to another hearing officer for a hearing on the same day if possible. If it is not possible to schedule a hearing on the same day, a new hearing date shall be scheduled and another hearing officer shall be assigned by the Secretary. The hearing officer shall have authority to conduct the hearing, to rule on all motions, to administer oaths, to subpoena witnesses or documents at the request of any party, to examine witnesses, and to rule upon the admissibility of testimony and evidence.
- c) **Depositions and Interrogatories.** Upon order of the hearing officer, for good cause shown, and upon reasonable notice to other parties, any party, including the Department, may cause, at his/her or its expense, a deposition of any witness to be taken for use as evidence in a contested case (for example, when the witness is not available due to distance, time, cost to the party using the testimony, sickness, infirmity, imprisonment, the witness being out of state or similar factors). The

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

deposition shall be taken in the manner provided by law for evidence depositions in civil actions in the Circuit Courts of Illinois. Any party may direct written interrogatories to any other party. Interrogatories must be restricted to the subject matter of the case, to avoid undue detail, and to avoid the imposition of any unnecessary burden or expense on the answering party. Written interrogatories shall be served on the opposing party no later than 15 business days before the hearing. Objection to answers or refusals to answer shall be heard on motion at the hearing before the hearing officer, who shall rule on the objection or refusal. Answers shall be sworn. If an answer to an interrogatory may be obtained from documents in the possession or control of the party on whom the interrogatories were served, it shall be a sufficient answer to specify the documents and make them available to the inquiring party to inspect and copy at the asking party's expense.

- d) **Rules of Evidence.** The technical rules of evidence shall not apply. Any relevant evidence may be admitted if it is the sort of evidence relied upon by reasonably prudent people in the conduct of their affairs. The existence of any common law or statutory exclusionary rule which might make improper the admission of the evidence over objections in civil or criminal actions shall not be a bar to the admissibility of otherwise relevant evidence. The rules of privilege shall be followed to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant, immaterial or unduly repetitious evidence may be excluded upon objection. Objections to evidentiary offers may be made and shall be noted in the record, and ruled upon by the hearing officer. Any party may make an offer of proof following an adverse evidentiary ruling. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form. Subject to the evidentiary requirements of this subsection, a party may conduct cross-examination required for a full and fair disclosure of the facts.
- e) **Official Notice.** Official notice may be taken of past hearings and any matter of which the Circuit Courts of Illinois may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including staff memoranda and data, and they shall be afforded an opportunity to contest the material so noticed. The Department's and the hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- f) Pre-hearing Conference. At the request of any party or upon his own motion, the hearing officer may call a prehearing conference. At the conference, the parties or their representatives shall appear as the hearing officer directs. Matters which may be considered at a prehearing conference include, but are not limited to:
- 1) The simplification of the issues;
 - 2) Amendments to the grounds for action;
 - 3) The possibility of obtaining admissions and stipulations of fact and of documents which will avoid unnecessary proof;
 - 4) The limitation of the number of expert witnesses;
 - 5) Any other matters which may aid in the disposition of the contested case.
- g) Order from Pre-hearing Conference. Upon the conclusion of a prehearing conference, the hearing officer shall enter an order which recites any action taken, any agreements made by the parties as to any of the matters considered, and the issue to be heard.
- h) List of Witnesses; Bill of Particulars. Upon written request, made at least 10 business days prior to the hearing, a party shall furnish to other parties a list of the names and addresses of prospective witnesses, or furnish written answers to a written demand for a bill of particulars.
- i) Inspection of Documents; Interview of Parties. Any party or his representative shall have the right, upon written motion made at least 10 business days prior to the hearing, to inspect any relevant documents in the possession of or under the control of any other party and to interview parties or persons having knowledge of relevant facts, subject to any statutory or constitutional privileges. Interviews of persons and inspection of documents shall be at times and places reasonable for the persons and for the custodian of the document.
- j) Oath. Testimony shall be taken only on oath or affirmation.
- k) Stipulations. Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing.
- l) Right to Subpoena. Each party shall have the right to request the subpoena of and

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

to call and to examine witnesses, to introduce exhibits, and to cross-examine witnesses on any matter relevant to the issues, even though that matter was not covered in the direct examination. Applications to the hearing officer assigned to the case for subpoenas duces tecum shall specify the books, papers, and documents desired to be produced.

- m) **Rights of Parties.** Each party shall have the right to rebut the evidence against him; to appear in person; and to be represented by counsel. If a party does not testify in his/her own behalf, he or she may be called by the Secretary of State's representative and examined as if under cross-examination.
- n) Motions to Continue and Withdraw
 - 1) **Grounds.** Hearings before the Department of Administrative Hearings will be continued only pursuant to a motion: filed prior to or on the date of the hearing, made over the telephone less than 15 days prior to or on the date of the hearing, or in person on the day of the hearing. The movant shall set forth the grounds for the motion, which are limited to unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God, the recent discovery of new evidence, the sudden illness or death of the movant or a member of his/her immediate family, or of the movant's legal counsel, or if the movant is able to demonstrate some other real and compelling need for additional time. A Motion to Continue may be supported by evidence which tends to prove the grounds alleged, including sworn testimony taken at a motion hearing on the day of the hearing. The inability to obtain transportation to the hearing site or a party's failure or inability to obtain the documentation required to fulfill the minimum requirements to be issued driving relief are not circumstances which will justify continuing a hearing.
 - 2) **Must be Continued to a Date Certain.** A formal hearing shall not be continued "generally". A continuance, if granted, shall state a date certain upon which the hearing shall reconvene. If the petitioner is not prepared to go forward after the first continuance, a request to withdraw should be submitted.
 - A) Motions to Continue which are filed at least 15 days prior to the date of the hearing specified in the Notice of Hearing or Notice of a continued hearing date will be given priority in re-scheduling over those motions filed or made less than 15 days prior to the date

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

of the hearing or made on the day of the hearing. The Department will rule upon Motions to Continue filed at least 15 days prior to the date of the hearing and, when possible, notify the movant of its ruling prior to the date of the hearing. If the motion is denied, then the movant must appear at and proceed with the hearing or withdraw from the hearing.

- B) Motions to Continue which are made in person on the day of the hearing or by telephone less than 15 days prior to the date of the hearing specified in the Notice of Hearing or Notice of a continued hearing date must also be filed in writing and received or postmarked no more than 5 days after the date of the hearing. A Motion to Continue made in writing less than 15 days prior to the date of the hearing specified in the Notice of Hearing or Notice of a continued hearing date must be received or postmarked no more than 5 days after the date of the hearing. The Department cannot assure the movant that it will rule upon such motions prior to the date of the hearing.
- C) A Motion to Continue made or filed by a petitioner waives the statutory requirement of [Sections §§ 2-118 and 3-402.B\(7\)\(a\)](#) of the Code that his/her hearing commence within 90 days from the date of his/her written request.
- D) It is the responsibility of the movant to inform the Department, in the Motion to Continue or during his/her telephone conversation, what course of action he/she wishes to take if the motion is denied (either to appear and proceed with the hearing, withdraw or default). In all cases, it is also the responsibility of a movant who has not been notified of the Department's ruling to contact the Department on or before the day of the hearing to determine whether his/her motion has been ruled upon. A movant's failure to appear after a Motion to Continue is denied will result in the entry of an Order of Default.
- 3) **Motions Made by the Department.** The Department may also make or file a Motion to Continue for unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God, the recent discovery of new evidence, the sudden illness or death of the hearing officer, the attorney representing the Secretary of State, a witness, or a member of the

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

immediate family of the same, or if the Department is able to demonstrate some other real and compelling need for additional time.

- 4) Motions to Withdraw. A petitioner may withdraw from a hearing for any reason. A Motion to Withdraw made in person or by telephone on or before the day of the hearing must be followed up with a written motion which is received or postmarked no more than 5 days after the date of the hearing. A Motion to Withdraw made in writing must be received or postmarked no more than 5 days after the date of the hearing. Failure to do so will result in an Order of Default. A request to withdraw from a hearing, which in the hearing officer's judgment is based upon surprise of evidence presented or adverse evidence, shall not be granted. Upon withdrawal, the requested relief will not be considered and the petition dismissed. Should the petitioner request another hearing, it must be done in writing and it will be treated as any other request for hearing. (See Section 1001.70.)
- 5) Attorney's Appearance Must be on File. A Motion to Continue or Withdraw made by any attorney on behalf of a petitioner/respondent will not be considered unless the attorney shall have filed a written notice of appearance as provided in Section 1001.40.
- 6) Out-of-State Petitioners. An out-of-state petitioner who fails to provide the information required by Sections 1001.100(a)(3) and 1001.440(o) within 90 days after a written demand made by the Department to his/her last known address shall have his/her petition withdrawn by a written Order of the Director or Deputy Director. The Order shall be made part of the petitioner's permanent record and a copy shall be sent to the petitioner's last known address. The Department shall not accept another petition for driving relief from a petitioner whose petition for driving relief has been withdrawn pursuant to this provision for 120 calendar days from the date of the Order.
 - o) Admissions. A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request or for the admission of genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished.
 - p) Opening and Closing Statements. Upon the opening of the hearing, the hearing

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

officer shall allow the parties to make opening statements. Opening statements may not be made at any other time, except at the discretion of the hearing officer. Upon the close of the hearing each party may make a closing statement orally and/or by written brief at the discretion of the hearing officer, incorporating arguments of fact and law. A written brief may be required when the facts and issues are deemed complicated by the hearing officer and there is a need for the parties to plead their cases in writing for the record.

- q) **Exhibits.** All exhibits for any party shall be clearly marked for identification and as admitted into evidence by the hearing officer.
- r) **Cross-examination of Witnesses.** In the hearing of any case, any party or his agent may be called, as an adverse witness and examined as if under cross-examination, by any party. The adverse party calling for the examination is not bound by the testimony of the adverse witness, but may rebut the testimony given and may impeach the witness by proof of prior inconsistent statements. If the hearing officer determines that a witness is hostile or unwilling, the witness may be examined by the party calling him as if under cross-examination. The party calling an occurrence witness may, upon showing that he called the witness in good faith but is surprised by his testimony, impeach the witness by proof of prior inconsistent statements.
- s) **Burden of Proof.** The burden of proof is upon the petitioner for any relief in a hearing. The standard of proof is the preponderance of the evidence, except as provided for in Subpart D.
- t) **Interpreters; Hearing Impaired.** The Secretary will provide an interpreter for hearing impaired petitioners/respondents who wish to testify; providing a language interpreter, however, is the responsibility of the petitioner/respondent.
- u) Report of Proceedings
 - 1) The Department shall, at its expense, have present at each hearing an electronic recording device or a qualified court reporter, for the purpose of making a permanent and complete report of the proceedings, including: evidence admitted or tendered and not admitted, testimony, offer of proof, objections, remarks of the hearing officer and of the parties and/or their representatives, all rulings of the hearing officer.
 - 2) Upon request and at his/her own expense any party may have a copy of the

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

report of proceedings, from the court reporter, or transcribed from the electronic device by the Department at the statutory rate set forth in Section 5.5 of the Secretary of State Act [15 ILCS 305/5.5] and 2 Ill. Adm. Code 551.150, or the cost of an audio tape plus mailing.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.110 Orders

- a) The Department shall prepare a written order for all final determinations, which shall include the Findings of Fact, Conclusions of Law, Recommendations of the hearing officer, and the Order of the Secretary.
- b) The hearing officer shall prepare the Findings of Fact, Conclusions of Law, and Recommendations to the Secretary. The Findings of Fact and Conclusions of Law must be stated separately.
- c) The Order of the Secretary of State shall be the decision of the Office upon the application for relief.
- d) The Department shall notify all parties and their agents personally or by mail of the Findings of Fact, Conclusions of Law, Recommendations, and the Order within the statutory time limit specified in Section 2-118 of the Code~~but in no case more than 180 days after the date of the hearing's conclusion.~~
- e) An Order of Default shall be entered against the petitioner or respondent, who fails to appear for a hearing at the scheduled time and has failed to request or been granted a continuance in accordance with Section 1001.100(n).
- f) Orders resulting from formal hearings are final administrative orders within the meaning of the Administrative Review Law [735 ILCS 5/Art. III].
- g) The Department will accept a Motion to Correct a Material Misstatement of Fact made in an Order. Such a motion must be submitted within 30 days after the date of the Order, shall recite with particularity the nature of the material misstatement of fact, and shall be accompanied by a filing fee of \$20, in the manner and form provided in Section 1001.70.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS IN DRIVER'S
LICENSE SUSPENSIONS AND REVOCATIONS**Section 1001.300 Applicability**

- a) This Subpart applies to informal hearings conducted by driver license hearing officers in the Department of Administrative Hearings of the Office of the Secretary of State in various locations throughout Illinois. They are a lower level hearing than the formal hearings conducted pursuant to Subpart A of this Part. There is no appeal from an informal hearing to a formal hearing because the formal hearing is a de novo proceeding. These informal hearings are limited to the consideration of and the making of recommendations on driver's license suspension and revocation matters and the recommendations may include any recommendation able to be made by a formal hearing.
- b) An informal hearing shall not, however, consider petitions in the following cases:
 - 1) the current suspension, ~~or~~ revocation, or cancellation resulted from a ~~conviction for~~ an offense, the facts of which involved a death;
 - 2) for the rescission or modification of suspensions or revocations;
 - 3) the current suspension or revocation resulted from multiple convictions pursuant to Section 11-501 of the Code, multiple suspensions pursuant to Section 11-501.1 of the Code or similar provisions of local ordinances or out-of-state statutes, or any combination thereof arising from separate incidents;
 - 4) an open revocation entered pursuant to Section 6-206(a)1.
- c) An informal hearing may, however, consider, after initial approval or issuance at a formal hearing, a petition for the continuation/renewal of restricted driving permits in the above cases if:
 - 1) a restricted driving permit was granted from a formal hearing;
 - 2) a permit is still in effect or has expired no more than 30 days from the date of the informal hearing;
 - 3) the petitioner has not been subsequently convicted or received court

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

supervision for any traffic violation classified as a misdemeanor or felony.
(See Sections 6-601 and 11-202 of the Code.);

- 4) the petitioner has driven on the current permit for at least 75% of the length of the permit; and
- 5) the petitioner is now eligible for and requests the continuation of the previously issued permits.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.320 Right to Representation

Any petitioner may represent himself or herself at an informal hearing, or may be represented by an attorney licensed to practice law in Illinois, or in another state who is specifically permitted, either by the Director of the Department or a judge of the circuit court of the county in which the hearing is conducted, pursuant to an Order pro hac vice, Hearing Officer to represent a petitioner at the informal hearing, upon the attorney's verbal representations or written documentation as to the attorney's admittance, or any law student licensed under Supreme Court Rule 711. A petitioner may be assisted by a non-lawyer if the petitioner is representing himself or herself.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.340 Location of Hearings

- a) There shall be at least one hearing officer in each region.
- b) The headquarters of each region shall be in the facility located in that city, and a work location may also be established by the supervisor for one or more hearing officers within a region.
- c) The regions and headquarters shall be designated by the Secretary or the Director of the Department and announcements of the location and days and hours of service shall be posted at driver's license stations throughout the State and on the Secretary of State website (cyberdriveillinois.com). This information will be updated quarterly. are:
 - 1) Region 1, consisting of the counties of Jo Daviess, Stephenson, Winnebago, Boone, DeKalb, Lee, Ogle, Whiteside, and Carroll, with headquarters in Rockford.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 2) ~~Region 2, consisting of the counties of Rock Island, Henry, Mercer, Knox, Warren, and Henderson, with headquarters in the City of Moline.~~
- 3) ~~Region 3, consisting of the counties of Kendall, Will, Grundy, Kankakee, and Livingston, with headquarters in Joliet.~~
- 4) ~~Region 4, consisting of the counties of Fulton, Stark, Peoria, Woodford, and Tazewell, with headquarters in the City of Peoria.~~
- 5) ~~Region 5, consisting of the counties of Iroquois, Ford, Vermilion, Champaign, and Piatt, with headquarters in the City of Champaign.~~
- 6) ~~Region 6, consisting of the counties of Mason, Logan, Cass, Menard, Morgan, Sangamon, Scott, Christian, Greene, Macoupin, and Montgomery, with headquarters in the Howlett Building, Springfield.~~
- 7) ~~Region 7, consisting of the counties of Hancock, McDonough, Schuyler, Adams, Brown, and Pike, with headquarters in Quincy.~~
- 8) ~~Region 8, consisting of the counties of Douglas, Edgar, Moultrie, Coles, Clark, Cumberland, Shelby, Effingham, Jasper, and Crawford, with headquarters in Mattoon or Effingham.~~
- 9) ~~Region 9, consisting of the counties of Fayette, Bond, Marion, Clay, Clinton, Washington, and Jefferson, with headquarters in Centralia or Mt. Vernon.~~
- 10) ~~Region 10, consisting of the counties of Calhoun, Jersey, Madison, Randolph, St. Clair, and Monroe, with headquarters in East St. Louis.~~
- 11) ~~Region 11, consisting of the counties of Perry, Franklin, Jackson, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac, with headquarters in Carbondale or Marion.~~
- 12) ~~Region 12, consisting of the counties of Kane and DuPage, with headquarters in Naperville.~~
- 13) ~~Region 13, consisting of the county of Cook, with headquarters in the building where the Department is located in Cook County.~~

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 14) ~~Region 14, consisting of the counties of McHenry and Lake, with headquarters in Libertyville.~~
- 15) ~~Region 15, consisting of the counties of Bureau, LaSalle, Putnam, and Marshall, with headquarters in the City of LaSalle.~~
- 16) ~~Region 16, consisting of the counties of DeWitt, Macon, and McLean, with headquarters in Bloomington.~~
- 17) ~~Region 17, consisting of the counties of Wayne, Edwards, Wabash, Lawrence, Richland, Hamilton, and White, with headquarters in Lawrenceville.~~

d) Out-of-state Petitioners

- 1) Petitioners who have permanently relocated outside of the State of Illinois and petitioners who are still residents but are temporarily residing outside the State of Illinois may make, except as provided in subsection (d)(2) below, written application in lieu of returning to Illinois for an informal hearing. The petitioner shall be deemed to have waived the right to appear in person. Out-of-state petitioners must initially submit evidence of their residency, such as, but not limited to, voter's registration, income tax returns, apartment rental leases, mortgage contracts, employment verification, utility and/or telephone bills, etc. The Department reserves the discretion to reject out-of-state petitions which fail to provide this evidence or establish residency. The Department also reserves the discretion to reject an out-of-state petition if there is evidence that the petitioner is maintaining substantial contact with the State of Illinois and is capable of attending a hearing in person in a timely manner.
- 2) Out-of-state petitioners who reside within 30 miles of the Illinois border shall be required to attend a hearing in person, unless the petitioner shows good cause for not being able to attend in person. "Good cause" is shown when it is demonstrated by a written statement that the petitioner cannot attend a hearing in person due to economic, physical, or medical reasons. Mere inconvenience does not constitute good cause.
- 3) Except as provided in Sections 1001.430(k) and 1001.440(o), out-of-state petitioners must submit at a minimum all documentation and information

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

required by Subpart D, as well as a sworn Out-Of-State Petitioner's Affidavit that provides the information otherwise required by the Secretary at an informal hearing.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section 1001.400 Applicability; Statement of Principle and Purpose

- a) Applicability. This Subpart applies to the decision making process on applications for: restricted driving permits by persons whose driving privileges have been suspended, revoked, cancelled or denied; the issuance of restricted driving permits conditioned upon the installation of a breath alcohol ignition interlock device (BAIID); the reinstatement of driving privileges; the granting of driving privileges after denial; and the termination of cancellations. Each petitioner's case is unique and all of the evidence and the petitioner's entire driving record must be considered with these standards before a decision is made. The issuance of both forms of driving relief are discretionary with the Secretary of State upon the evidence presented as set forth in this Subpart D.
- b) Statement of Principle and Purpose
- 1) In cases in which a person's driver's license and driving privileges are suspended or revoked, the Secretary has been given the following statutory mandate: *In no event shall the Secretary issue such license unless and until such person has had a hearing pursuant to the Code and the appropriate administrative rules and the Secretary is satisfied, after a review or investigation of such person, that to grant the privilege of driving a motor vehicle on the highways will not endanger the public safety or welfare.* [625 ILCS 5/6-208] In the discharge of this mandate, this Subpart D provides guidance to both the Department and the public for issuing and obtaining driving relief.
 - 2) In the implementation of this Subpart D, the Office of the Secretary of State subscribes to the disease concept of alcoholism/chemical dependency, as defined in the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/1-10] and incorporates by reference the

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Jellinek chart (E.M. Jellinek, The Disease Concept of Alcoholism, Hillhouse Press (1960, no further amendments or additions included)). Furthermore, it is the policy of the Secretary of State that this Subpart D is to be read, interpreted, and applied as an integrated whole, rather than separately and individually. Therefore, the purpose of this Subpart D is to assist the hearing process to determine, first, the nature and extent of a petitioner's alcohol/drug problem; second, whether the petitioner's alcohol/drug problem has been resolved; and, third, whether the petitioner will be a safe and responsible driver. The petitioner must carry the burden of proof on each of these 3 issues by clear and convincing evidence in order to obtain driving relief. A petitioner cannot prove that he/she will be a safe and responsible driver unless and until the petitioner has proven that his/her alcohol/drug problem has been resolved. The fact the petitioner has abstained from the use of alcohol/drugs is not sufficient, in and of itself, to prove that the petitioner's alcohol/drug problem has been resolved. Rather, a petitioner must also prove that he/she has successfully completed all recommended countermeasures and significant improvement has occurred in his/her attitude and lifestyle from that which existed at the time he/she committed the offenses resulting in the suspension or revocation of his or her driving privileges, so that the Secretary will be reasonably assured that the petitioner will be a safe and responsible driver in the future.

- 3) It is also the policy of the Secretary of State that a complete and accurate alcohol/drug use history is essential in determining the nature and extent of a petitioner's alcohol/drug problem and that a service provider's classification of a petitioner's alcohol/drug problem is not credible without a complete and accurate alcohol/drug use history. Furthermore, significant discrepancies and/or inconsistencies among or between the alcohol/drug use history recited in an alcohol/drug evaluation and the petitioner's testimony at a driver's license hearing, or the other evidence admitted at a hearing, renders suspect and unreliable a service provider's classification of a petitioner's alcohol/drug problem.
- 4) Finally, this Subpart D is to be read, interpreted, and applied as an integrated whole. Therefore, it is insufficient to a determination of whether a petitioner's alcohol/drug problem has been resolved and whether the petitioner will be a safe and responsible driver for a petitioner to prove the successful completion or accomplishment of only some or part of the requirements of the classification of his/her alcohol/drug use. Primarily,

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

[proof of long-term abstinence from the use of alcohol/drugs is insufficient to obtain driving relief without the successful completion or accomplishment of the other requirements of the classification of a petitioner's alcohol/drug use. To do so would allow for the arbitrary application of this Subpart D.](#)

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.410 Definitions

"Abstinence" means to refrain from consuming any type of alcoholic liquor or other drugs.

"Abstract" means a summary of a driver's record of traffic law violations, accidents, suspensions, revocations, cancellations, address and personal information of the driver, as contained in the files of the Office of the Secretary of State.

"Accredited educational course" means any class or course of instruction offered by an accredited educational institution that is either vocational in nature or is part of the matriculation process in receiving an academic degree, diploma, or certificate. It shall also include attendance at any required instructional class in an apprentice program.

"Accredited educational institution" means any school or institution, whether public or private, ~~that~~^{which} offers classes or courses of instruction, and ~~that~~^{which} is reviewed and approved or granted a waiver of approval by the controlling State agency.

"Alcohol" means ethanol, commonly referred to as ethyl alcohol or alcoholic beverage.

"Alcohol and drug evaluation (Investigative)" means a typewritten report which conforms to standards established by the Department, as specified in Section 1001.440(a)(6)(D) of this Subpart. The evaluation must be completed on a form prescribed by the Department. This evaluation will be conducted as required pursuant to Sections 1001.420(1) and 1001.430(d) of this Subpart, when:

the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's driving record contains,

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

or other evidence indicates the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last 10 years for which the petitioner/respondent did not or was not required to submit to the Secretary an alcohol/drug evaluation to obtain driving privileges; or

there is evidence that the petitioner/respondent may be a user of alcohol or any other drug to a degree which renders the person incapable of safely driving a motor vehicle. (See Section 6-103.4 of the Code.)

"Alcohol and drug evaluation (Out-of-state)" means a typewritten report which conforms to standards established by the Department as specified in Section 1001.440(a)(6)(C) of this Subpart.

"Alcohol and drug evaluation (Uniform Report)" means a typewritten report which conforms to standards established by the Illinois Department of Human Services, Division Office of Alcoholism and Substance Abuse (DASA OASA). (See 77 Ill. Adm. Code 2060.503.) The evaluation must be completed on a form prescribed by DASA OASA. The evaluation must be signed and dated by both the evaluator and the petitioner.

"Alcohol and drug evaluation (Update)" means a typewritten report which conforms to standards established by the Department, as specified in Section 1001.440(a)(6)(B) of this Subpart. The evaluation must be completed on a form prescribed by the Department. The update evaluation must be completed by a program in accordance with the provisions of Section 1001.440(a)(6)(A) of this Subpart.

"Alcohol and drug related driver risk education course" means an educational program concerning the effects of alcohol/drugs on drivers of motor vehicles, also referred to as a DUI driver remedial program, which conforms to the standards established by DASA OASA. (See 77 Ill. Adm. Code 2060.505.)

"Alcohol setpoint" means the minimum or nominal BrAC (0.025) at which a device is set to lock a vehicle's ignition.

"BAC" means blood alcohol concentration as determined by a chemical test administered by police authorities or medical personnel to measure the concentration of alcohol in the bloodstream.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

"BAIID permittee " means a BAIID petitioner who has been issued an RDP as a result of a hearing.

"BAIID multiple offender " means anyone who is required to install an interlock device on all vehicles he or she owns, pursuant to Sections §§6-205(h) and 11-501(i) of the IVC. Any petitioner whose current or most recent suspension or revocation is for an offense or offenses that are not alcohol/drug-related, and whose alcohol/drug use was the topic of previous hearings that resulted in a finding that the petitioner's alcohol/drug problem had been resolved and who, therefore, previously fulfilled the requirements of Sections 6-205(h) and 11-501(i), is not a BAIID multiple offender.

"BAIID petitioner" means anyone who, if issued restricted driving permits, may not operate a motor vehicle unless it has been equipped with an interlock device as defined in this Section, as required by Sections §§ 6-205(c) and 6-206(c)3 of the IVC. Any petitioner whose current or most recent suspension or revocation is for an offense or offenses that are not alcohol/drug-related, and whose alcohol/drug use was the topic of previous hearings that resulted in a finding that the petitioner's alcohol/drug problem had been resolved, is not a BAIID petitioner.

"BAIID provider" means an entity authorized by the Secretary to contract with BAIID permittees and distribute, supply, install, maintain and monitor BAIID devices. A "BAIID provider" may be an authorized agent or representative of a manufacturer or an independent entity. "BAIID provider" may be synonymous with vendor, supplier, manufacturer, or installer.

"Breath Alcohol Ignition Interlock Devices (BAIID)" means a mechanical unit that is installed in a vehicle which requires the taking of a BrAC test prior to the starting of a vehicle. If the unit detects a BrAC test result below the alcohol setpoint, the unit will allow the vehicle ignition switch to start the engine. If the unit detects a BrAC test result above the alcohol setpoint, the vehicle will be prohibited from starting. The unit or combination of units, to be approved by the Secretary, shall measure breath alcohol concentrations by breath analysis and shall include both simple and complex units.

"BrAC" means the w/v breath alcohol concentration.

"Certified Controlled Reference Sample" means a suitable reference of known ethyl alcohol concentration.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

"Chemical Test" means the chemical analyses of a person's blood, urine, breath or other bodily substance performed according to the standards promulgated by the Department of State Police. (See 20 Ill. Adm. Code 1286.)

"Circumvention" means an overt, conscious effort to bypass the BAIID or any other act intended to start the vehicle without first taking and passing a breath test.

"Clinical Impression" means a qualified treatment professional's (see Section 1001.440(b)(2) through (b)(6)) opinion regarding the effectiveness of substance abuse treatment provided to an individual and the likelihood of future alcohol/drug-related problems. This constitutes the treatment professional's most reasonable clinical judgment based on direct involvement with the individual throughout the course of treatment. It should not be interpreted as a definitive statement regarding the likelihood of future alcohol/drug-related problems.

"Code" or "IVC" means the Illinois Vehicle Code [625 ILCS 5].

"DASA" means the Illinois Department of Human Services, Division of Alcoholism and Substance Abuse.

"Decertification" means the removal or cancellation by the Secretary of the authorization to sell, rent, distribute, supply, install, service, repair, or monitor BAIIDs for BAIID permittees and BAIID multiple offenders. The Secretary may decertify a BAIID provider or a particular type of BAIID. "Decertification" is synonymous with disqualification.

"Department" means the Department of Administrative Hearings of the Office of the Secretary of State.

"Designated driver remedial or rehabilitative program" means an alcohol or drug evaluation, an alcohol or drug-related driver risk education course, an alcohol or drug treatment program, the Office driver improvement program, or any similar program intended to diagnose and change a petitioner's driving problem as evidenced by the petitioner's abstract. (See Sections 6-205(c) and 6-206(c)3 of the Code.)

"Device" means a breath alcohol ignition interlock device approved by the Secretary.

"Director" means the Director or Acting Director of the Department.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

"Documentation of Abstinence" means testimony and documentation, in the form of affidavits, letters, etc., from individuals who have regular, frequent contacts with the petitioner (e.g., spouse, significant other, employer, co-workers, roommates) verifying that to the best of their knowledge the petitioner has been abstinent from alcohol/drugs for a specified period of time.

"Driver License Compact" is an agreement among signatory states ~~that which~~ deals with the problems of: issuing drivers' licenses to people who move from one signatory state to another; and drivers who are licensed in one signatory state and convicted of traffic offenses in other such states. The Compact has been codified in Illinois and is found in Chapter 6, Article VII of the Code.

"DUI" means driving under the influence.

"DUI disposition" means any conviction or supervision for DUI, or any conviction for reckless homicide when alcohol and/or drugs is recited as an element of the offense or other credible evidence indicates that the petitioner's/respondent's conduct causing death involved the use of alcohol or other drugs, or reckless driving reduced from DUI, or any statutory summary suspension or implied consent suspension.

"Employ" or "employed" or "employment" shall all relate to activity for compensation to support oneself or one's dependents as well as activities ordered by a court in connection with a sentence ~~thatwhich~~ includes the completion of a term of community service. Employment need not be the sole or primary means of support for the petitioner or his/her dependents.

"Evaluator" means any person licensed to conduct an alcohol and drug evaluation by ~~DASA~~~~OASA~~. (See 77 Ill. Adm. Code 2060.201.) A treatment provider may be considered an evaluator for the purpose of completing an updated evaluation in accordance with Section 1001.440(a)(6)(A) of this Subpart.

"Failure to successfully complete a ~~runningrolling~~ retest" means ~~any timeanytime~~ the BAIID Permittee registers a BrAC reading of 0.05 or more on a ~~runningrolling~~ retest or fails to perform a ~~runningrolling~~ retest ~~thatwhich~~ has been requested.

"Fee" means the statutory fees for restricted driving permits or reinstatement of driving privileges, as specified in Section 6-118 of the Code.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

"Hearing" means informal hearings and/or formal hearings.

"High Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner with:

symptoms of substance dependence (regardless of driving record), referred to in this Part as High Risk Dependent; and/or

within the 10 year period prior to the date of the most current (third or subsequent) arrest, any combination of two prior convictions or court ordered supervisions for DUI, or prior statutory summary suspensions, or prior reckless driving convictions reduced from DUI, resulting from separate incidents, referred to in this Part as High Risk Nondependent. (See 77 Ill. Adm. Code 2060.503(g).)

"Immediate family" means a member of the petitioner's household, the petitioner's parents, grandparents, children, and significant other.

"Initial Monitor Report" means the monitor report obtained or required to be obtained within the first 30 days after initial installation of the device.

"Installer" means an individual trained by a BAIID provider or manufacturer to install, repair, maintain, or monitor a BAIID and employed by an authorized BAIID provider, service center, vendor or manufacturer. "Installer" is synonymous with an authorized entity providing installation, repair, or monitoring services to BAIID permittees through such trained individuals.

"JDP" means a Judicial Driving Permit, as defined by Section 6-206.1 of the Code, which may be ordered by the court of venue to "first offenders" as defined in Section 11-501.1 of the Code.

"Lockout" means the device must prevent engine ignition by a virtual lock with 90% certainty or near absolute lock at 99.5% certainty.

"Manufacturer" means the maker of a BAIID or its authorized representative.

"Medical or physical BAIID modification" means a demonstrated physical or medical condition documented in writing by a physician that consistently interferes with the normal operation of the BAIID by the BAIID permittee for which the Department may authorize a modification of the BAIID or its

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

programming to accommodate the condition without violating the BAIID rules and statutory requirements .

"Medical or Physical BAIID Waiver" means a demonstrated physical or medical condition, documented in writing by a physician, that consistently interferes with or prevents the normal operation of the BAIID by the BAIID permittee for which the Department may authorize a waiver of the BAIID.

"Minimal Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner who has:

no prior conviction or court ordered supervisions for DUI, no prior statutory summary suspensions, and no prior reckless driving conviction reduced from DUI; and

a blood alcohol concentration (BAC) of less than .15 as a result of the most current arrest for DUI; and

no other symptoms of substance abuse or dependence. (See 77 Ill. Adm. Code 2060.503(g).)

"Moderate Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner who has:

no prior conviction or court ordered supervisions for DUI, and no prior statutory summary suspensions, and no prior reckless driving conviction reduced from DUI; and

a blood alcohol concentration (BAC) of .15 to .19 or a refusal of chemical testing as a result of the most current arrest for DUI; and no other symptoms of substance abuse or dependence. (See 77 Ill. Adm. Code 2060.503(g).)

"Monitor report" means an electronic report or a printout of the activity of a device obtained by the manufacturer or installer at the time of an inspection of the device which shall include at a minimum the number of successful and unsuccessful attempts to start the vehicle and rolling retests, including each date, time, and BrAC reading, and any evidence of tampering or circumvention of the device.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

"National Driver Register" means a central index, maintained by the U.S. Department of Transportation, of individuals whose driving privileges are denied, terminated or withdrawn, as reported by the states' driver licensing authorities.

~~"OASA" means the Illinois Department of Human Services, Office of Alcoholism and Substance Abuse.~~

"Office" means the Office of the Secretary of State and not any particular department address or location.

"Permanent lockout" means that feature of the device that prevents a vehicle with the device installed from starting after the lapse of the 5 days (see 92 Ill. Adm. Code 1001.442(b)(7)) and requires servicing by the manufacturer/installer of the device to make the vehicle operable for failure to take the vehicle with the device to the manufacturer or installer for any required monitor report or for any failure to send the device to the manufacturer within 5 days after any service or inspection notification.

"Petitioner" is the party who seeks or applies for relief from the Office from the suspension, revocation, cancellation, or denial of his/her driving privileges pursuant to the provisions of the Illinois Vehicle Code.

"RDP" means a restricted driving permit, as defined by Section 1-173.1 of the Code and limited as specified in Sections 6-205(c) and 6-206(c)3 of the Code.

"Reinstatement" means the restoration of driving privileges entitling the petitioner to apply for a new driver's license in accordance with the requirements of the Illinois Vehicle Code and this Chapter.

"Respondent" means a person against whom a complaint or petition is filed, or who, by reason of interest in the subject matter of a petition or application or the relief sought through that action, is made a respondent or to whom an order or complaint is directed by the department initiating a proceeding.

"Running retest" means that feature of the device that requires the driver to take additional BrAC tests after the initial test to start the vehicle.

"Secretary" means the Illinois Secretary of State or his designee.

"Service or inspection notification" means that feature of the device that advises

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

or notifies the BAIID permittee to either take the vehicle with the device installed to the BAIID provider or installer or send the device to the BAIID provider or installer for the required inspection and the monitor report.

"Service center" means an authorized dealer, distributor, supplier, or other business engaged in the installation of BAIIDs and is synonymous with installer.

"Significant other" means any person with whom an individual is experiencing an ongoing, close association that represents a meaningful part of that individual's established life style (e.g., spouse, other family member, employer, co-worker, clergy member, roommate).

"Significant Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner who has:

one prior conviction or court ordered supervision for DUI, one prior statutory summary suspension, or one prior reckless driving conviction reduced from DUI; and/or

a blood alcohol concentration (BAC) of .20 or higher as a result of the most current arrest for DUI; and/or

other symptoms of substance abuse. (See 77 Ill. Adm. Code 2060.503(g).)

"Stressed" means conditions such as temperature extremes, vibration, and power variability.

"Support/recovery program" means specific activities which a recovering alcoholic/chemically dependent person has incorporated into his/her life style to help support his/her continued abstinence from alcohol and other drugs. This may include, but is not limited to, participating in a self-help program (Alcoholics Anonymous, Narcotics Anonymous, etc.) or a professional support group, or regularly and frequently engaging in religious or other activities which have a distinct and positive effect on an individual's continued abstinence. Any program and its relationship to the individual's ability to remain abstinent must be clearly identified and verified by proper documentation independent from an individual's self report (such as indicated in Section 1001.440(e) through (i) of this Part). The hearing officer shall determine the viability of the petitioner's program as a means of supporting continued abstinence, taking into account all the evidence brought forward at the hearing, as well as considering whether the program is substantially

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

consistent with the following criteria:

The program encourages life style change which involves the replacement of substance using activity with non-substance using activity; a strong focus of the program is to provide ongoing assistance in identifying and resolving substance dependency-related issues that may jeopardize an individual's continued recovery;

The program encourages positive individual values of responsibility and honesty, as well as less self-centered thinking;

The program has demonstrated a durability and stability over time that reflects its usefulness in supporting long-term recovery.

"Tampering" means an overt, conscious attempt to disable or disconnect the interlock device.

"24 Hour lockout" means that feature of the device that causes a vehicle with the device installed to become inoperable for a period of 24 hours any time the device registers 3 BrAC readings of 0.05 or more within a 30 minute period.

"Undue hardship as it relates to educational pursuits" means an extreme difficulty in getting to and from the location of the accredited education course, due to the loss of driving privileges. It is more than mere inconvenience to the petitioner, and pertains only to the petitioner. All other reasonable means of transportation must be unavailable to the petitioner. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

"Undue hardship as it relates to employment" means, as used in the context of Sections 6-205(c) and 6-206(c)3 of the Code, an extreme difficulty in regard to getting to or from a petitioner's place of employment or to operate on a route during employment; e.g., as delivery person, because of the suspension, revocation, or cancellation of the petitioner's driving privileges. It is more than mere inconvenience on the petitioner and pertains only to the petitioner. All other reasonable means of transportation must be unavailable to the petitioner. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

"Undue hardship as it relates to necessary medical care" means an extreme difficulty in regard to getting to and from a location where petitioner or a member

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

of his/her immediate family receives examinations, therapy or treatment, etc., prescribed or recommended by a licensed physical or mental health care provider. It means more than mere inconvenience. There must be no other reasonable alternative means of transportation available. An undue hardship is not demonstrated by the mere fact that the petitioner's driving privileges are suspended or revoked.

"Undue hardship as it relates to support/recovery program" means an extreme difficulty in regard to getting to and from a location where a petitioner is participating in an ongoing support program. It means more than mere inconvenience. There must be no other reasonable alternative means of transportation available. An undue hardship is not demonstrated by the mere fact that the petitioner's driving privileges are suspended or revoked.

"Unsuccessful attempt to start the vehicle" means anytime the BAIID permittee registers a BrAC reading of 0.025 or more on the device when attempting to start the vehicle.

"Vehicle", for purposes of the Breath Alcohol Ignition Interlock Device Program, means every apparatus in, upon or by which any person or property is or may be transported or drawn upon a highway and that is self-propelled, except for apparatuses moved solely by human power, motorized wheelchairs, motorcycles and motor driven cycles.

"Vendor" means a retail or wholesale supplier of a device, and may include a service center.

"W/V" means weight of alcohol in the volume of breath based upon grams of alcohol per 210 liters of breath.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.420 General Provisions Relating to the Issuance of Restricted Driving Permits

- a) Burden of Proof. Petitioners who are not eligible for reinstatement of driving privileges at the time of their hearing must prove that there is no reasonable alternative means of transportation available, that they will not endanger the public safety and welfare, and that an undue hardship will result if they are not issued a restricted driving permit (RDP). The Secretary of State does not weigh

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

the nature or extent of a petitioner's hardship against the risk he/she poses to the public safety and welfare. Rather, the petitioner must first carry his/her burden of proving that he/she will not endanger the public safety and welfare in order for the Secretary of State to consider whether the petitioner has an undue hardship.

b) RDP Classifications

- 1) Employment. A petitioner for an employment related RDP must be currently employed, or present a verifiable commitment for employment, and the employment must be verified upon forms prescribed by the Department. If the petitioner is self-employed, evidence of self-employment can include, but is not limited to, stationery, business card, official receipt, check, State or Federal tax returns or letters from business associates.
- 2) Medical or Treatment. A petitioner for an RDP for medical or treatment purposes must provide verifiable documentation from the licensed physical or mental health care provider involved that the petitioner or a member of his/her immediate family (who is unable to operate a motor vehicle) must receive or is receiving services on a regularly scheduled basis.
- 3) Community Service. A petitioner for an RDP for court ordered community service must provide certified court documents detailing the terms of the service, including but not limited to the place or places the service is performed, the hours during which the service is to be performed and the nature of the service.
- 4) Educational. A petitioner for an educational RDP must be currently enrolled, or intend to enroll for the next available session, in an accredited educational institution for the purpose of taking an accredited educational course or courses. Prior to the issuance of any educational RDP, the petitioner must submit verification of enrollment from the institution. The verification shall be on a form provided by the Secretary of State.
- 5) Support/Recovery.
 - A) A petitioner for a support/recovery program RDP must provide verifiable documentation, from members of the group or program, that he/she has been attending meetings on a regular basis.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

B) A petitioner who wishes to begin or resume participation in a support/recovery program, but who resides alone or in a household in which there is no other licensed driver and resides in a remote location in or near a community in which public transportation is not available, will be considered for a support/recovery program RDP if the petitioner proves that he/she has been abstinent from all alcohol and drugs for a minimum of 12 months and has satisfied the other provisions of this Subpart.

6) Revocations for Reckless Homicide and Aggravated DUI Involving a Fatality. A petitioner who has an open revocation for reckless homicide or aggravated driving under the influence that involved a fatality must submit, with the petition for driving relief, either a copy of the Order of the circuit court that states the sentence received upon conviction, certified by the Clerk of the Court, or a document from the Department of Corrections that reflects: the offense for which the petitioner was imprisoned; the date of release from imprisonment; and the terms of release or parole. For the purpose of determining a petitioner's eligibility for the issuance of a restricted driving permit pursuant to Sections 6-205(c) and 6-206(c)3 of the Code, the date of release from imprisonment refers to the imprisonment on the conviction for the offense and does not include release from imprisonment for a violation of parole or probation. It is the responsibility of the petitioner to provide documentation that clearly reflects the date of his/her release from imprisonment.

cb) Jurisdiction/Eligibility. An RDP may be granted only after suspension, revocation, or cancellation for the offenses listed in Sections 6-205, 6-206, 6-303, 6-201(a)5 as it relates to 6-103.4, 11-501.1, 11-501.6 and 11-501.8 of the Code. Petitioners who are eligible to apply for a JDP are not eligible for and will not be considered for an RDP.

de) Undue Hardship. A petitioner must prove by clear and convincing evidence that an undue hardship is currently being suffered as a result of the inability to legally operate a motor vehicle. Mere inconvenience to the petitioner or family and friends is not undue hardship. The petitioner should produce clear and convincing evidence as to the unavailability of reasonable alternative means of transportation, such as but not limited to: walking, mass transit, car pools, or being driven; how the petitioner is currently getting to his/her destination; whether driving is required in the course of employment; the distance between the petitioner's

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

residence and his/her destination; and similar factors relating to employment, necessary medical care, support/recovery program meetings, community service and/or educational pursuits.

- 1) Appropriate limits will be established for necessary on-the-job driving. The days, hours, and mileage limits will not exceed those absolutely necessary for the accomplishment of the petitioner's primary employment and shall be limited to a maximum of 12 hours per day and 6 days per week unless the request for increased limits is substantially documented, such as through an employer's verification of the petitioner's work schedule.
- 2) A support/recovery program RDP may include attendance at no more than 3 meetings per week.
- 3) An educational RDP will be subject to appropriate limits necessary to allow the petitioner to get to and from the subject institution/courses. The days and hours will not exceed those absolutely necessary for that purpose and shall be limited to a maximum of 12 hours per day and 6 days per week. Additional parameters to consider in setting these limits shall include whether the petitioner commutes daily to the courses, is required to participate in clinical or student teaching programs in order to fulfill the requirements for a degree in his/her chosen field, or lives on or within a radius of one mile from the campus and only needs to drive to and from the institution on an infrequent basis (less than once per week) and is then able to get to the courses by other means of transportation. The permit shall expire at the conclusion of the period for which it is granted.

ed) **Factors Considered.** Factors which will be considered by the Department in determining the propriety of granting a petitioner an RDP include, but are not limited to: the petitioner's age; whether the petitioner has driven while suspended or revoked; duration of present employment; number of years licensed to drive; number, severity, and frequency of accidents; frequency, type, and severity of traffic violations; efforts at rehabilitation or reform of past driving practices; demeanor of petitioner in the hearing; credibility of petitioner and witnesses in the hearing; credibility of and weight given to the petitioner's documentary evidence; petitioner's total driving record, including but not limited to reasons for violations, prior permits issued (unless such permits were issued pursuant to the order of a circuit or appellate court following an administrative review action) and driving record while on such permits; driving history in another state if licensed

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

previously; reports of probation and/or parole officers; and psychiatric reports where the evidence shows that petitioner is suffering or has suffered from a mental disorder which might affect his/her ability to operate a motor vehicle in a safe and responsible manner.

- fe)** Public Safety and Welfare. Pursuant to Sections 6-205(c) and 6-206(c)3 of the Code, the public welfare and safety must not be endangered by the issuance of an RDP. The evidence must show that the petitioner will operate a motor vehicle safely so as not to be a danger to himself or herself or others. The mere passage of time since the date of revocation is not sufficient evidence.
- gf)** Ticket Pending. An RDP will not be issued while any ticket is pending against a petitioner in any court of this or any other state, unless the pending citation or citations are also the only cause of the current loss of driving privileges.
- hg)** Referral to Remedial Program. A petitioner who is otherwise eligible for an RDP may be referred to a remedial or rehabilitative program prior to the permit's issuance, if his/her driving record warrants these measures. (See Sections 6-205(c) and 6-206(c)3 of the Code.)
- ih)** Probationary RDP – Hardship Not Required. A petitioner otherwise eligible for reinstatement of driving privileges or termination of a cancellation under Section 6-201(a)5, as it relates to 6-103.4, may be issued an RDP for a probationary or trial period prior to ~~full~~ reinstatement of driving privileges or termination of cancellation in cases where the petitioner has a poor driving record (evidenced by many minor violations or a few serious violations) or involvement as a driver in a traffic collision or collisions resulting in death or injury requiring immediate professional treatment in a medical facility or doctor's office to any person, or has been evaluated as Moderate Risk, Significant Risk or High Risk by an alcohol/drug evaluation. A petitioner is not required to prove an undue hardship in order to obtain a probationary RDP.
- ji)** Out-of-state Resident. An RDP will be issued to an out-of-state resident only if he/she has a valid license to drive issued by the jurisdiction in which he/she resides; he/she has a verified employment, medical, community service or educational related need to drive in Illinois; and he/she complies with all other requirements of this Subpart.
- kj)** New Resident of Illinois. An RDP will not be issued to a new resident of Illinois if his/her driving privileges are suspended in another jurisdiction until such time

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

as that suspension is terminated. An RDP may be issued to a new resident of Illinois if his/her driving privileges are revoked in another jurisdiction under the following conditions:

- 1) At least one year has expired from the date of the revocation yet the revocation period has not expired; and
- 2) The petitioner submits written verification from the other jurisdiction indicating that an RDP or similar type of driving relief would be available if the petitioner were still a resident of that jurisdiction; and
- 3) The petitioner meets all other applicable requirements of this Subpart.

lk) Decision. The Director or a designee shall make the final decision, on each petition, on behalf of the Secretary. If relief was sought at a formal hearing, petitioners will receive a copy of the hearing officer's Findings of Fact, Conclusions of Law, and Recommendations, and the Secretary's Order.

m) Investigative Evaluation. A petitioner will be required to complete and submit an investigative alcohol and drug evaluation as part of the Secretary's investigative process, where the evidence, including the petitioner's driving record, indicates that:

- 1) the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's driving record contains, or other evidence indicates the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last 10 years for which the petitioner/respondent did not or was not required to submit to the Secretary of State an alcohol/drug evaluation to obtain driving privileges; or
- 2) the petitioner/respondent may be a user of alcohol or any other drug to a degree which renders that person incapable of safely driving a motor vehicle. (See Section 6-103.4 of the Code.)

The petitioner will be required to complete any recommended rehabilitative activity or provide a waiver.

nm) Examination. A petitioner whose driving privileges have been revoked or cancelled or whose driver's license has expired will be required to submit to a

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

driver's license examination prior to the issuance of an RDP.

- on) **Fourth Conviction.** Pursuant to Section §6-208(b)4, the Secretary of State will not issue a restricted driving permit to any person who has a fourth conviction and revocation for the offenses listed in that Section and who is, therefore, not eligible to apply for the reinstatement of driving privileges, if the arrest ~~that~~**which** resulted in the fourth conviction was made after the effective date of P.A. 90-738 (1/1/99), ~~which was 1 January 1999~~.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.430 General Provisions for Reinstatement of Driving Privileges after Revocation

- a) **Conviction is Dispositive.** In all cases, a conviction in a court of law in Illinois or any other state is dispositive of the guilt of a petitioner of the offense which caused his/her revocation.
- b) **Cause Removed.** If revocation was for a cause that has been removed, such as the reversal of a conviction upon which revocation was entered, the petitioner must demonstrate that fact by clear and convincing evidence.
- c) **Hardship Not Required; Factors Considered.** A petitioner who is otherwise eligible for reinstatement of driving privileges at the time of his/her hearing is not required to prove an undue hardship as a condition of being, or in order to be, reinstated. The factors ~~that~~**which** will be considered by the Department in determining the propriety of reinstating a petitioner whose driving privileges have been revoked include but are not limited to: The petitioner's age; whether the petitioner has driven while suspended or revoked; duration of present employment; number of years licensed to drive; number, severity, and frequency of accidents; frequency, type, and severity of traffic violations; efforts at rehabilitation or reform of past driving practices; demeanor of petitioner in the hearing; credibility of petitioner and witnesses in the hearing; credibility of and weight given to the petitioner's documentary evidence; petitioner's total driving record, including but not limited to reasons for violations, prior permits issued (unless such permit was issued pursuant to the order of circuit or appellate court following an administrative review action), and driving record while on any permit; driving history in another state if licensed previously; reports of probation and/or parole officers; and psychiatric reports where the evidence shows that petitioner is suffering or has suffered from a psychiatric disorder ~~that~~**which** might

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

affect his/her ability to operate a motor vehicle in a safe and responsible manner.

d) Investigative Evaluation

1) A petitioner will be required to complete and submit an investigative alcohol drug evaluation as part of the Secretary's investigative process, where the evidence, including the petitioner's driving record, indicates that:

A+) the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's driving record contains, or other evidence indicates the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last 10 years for which the petitioner/respondent did not or was not required to submit to the Secretary of State an alcohol/drug evaluation to obtain driving privileges; or

B2) the petitioner/respondent may be a user of alcohol or any other drug to a degree ~~that~~which renders that person incapable of safely driving a motor vehicle. (See Section 6-103.4 of the Code.)

2) The petitioner will be required to complete any recommended rehabilitative activity or provide a waiver.

e) Examination. A petitioner will be required to submit to a driver's license examination prior to the reinstatement of driving privileges if the test has not been successfully completed in the preceding 12 months.

f) Public Safety and Welfare. In case of either subsection (b) or (c), the public welfare and safety must not be endangered by the reinstatement of the petitioner's driving privileges. The petitioner, if restored to full driving privileges, must operate a motor vehicle safely so as not to be a danger to himself or herself or other drivers on the road. The mere passage of time since the date of revocation is not sufficient evidence.

g) Eligibility. A hearing for reinstatement will not be conducted at any time before the prescribed date of eligibility.

h) Ticket Pending. The driving privileges of a petitioner shall not be reinstated while

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

any traffic offense is pending against him/her in any court.

- i) 75% Rule. A petitioner who is driving on a probationary restricted driving permit at the time of his/her hearing will not be considered for reinstatement, regardless of the petitioner's eligibility date, unless he/she has successfully completed driving on that permit for 75% of its length, or has driven continuously on the current permit and a previously issued permit for a total of at least 9 months at the time that the petitioner becomes eligible for the reinstatement of driving privileges. However, a petitioner may appeal to the Director of the Department for a waiver of this provision when exigent circumstances warrant consideration of a waiver. An exigent circumstance is one that would prevent the petitioner from ever being able to meet this requirement, such as moving out of the State.
- j) Decision. The Director or a designee shall make the final decision, on each petition, on behalf of the Secretary. If relief was sought at a formal hearing, petitioners will receive a copy of the hearing officer's Findings of Fact, Conclusions of Law, and Recommendations, and the Secretary's Order.
- k) Out-of-state Petitioners. Notwithstanding any other provisions of this Subpart, the following provisions for reinstatement of the Illinois driving privileges for certain out-of-state petitioners shall apply:
 - 1) Out-of-state petitioners whose driving privileges are revoked in Illinois shall be granted reinstatement of Illinois driving privileges upon a showing that:
 - A) he/she is not currently a resident of the State of Illinois and resides more than 30 miles from the Illinois border;
 - B) at the time of arrest or arrests in Illinois for the violations that led to the revocation of the Illinois driving privileges, the petitioner was not licensed to drive in Illinois, was a resident of a state or jurisdiction other than Illinois, and continues to reside in that or any other state or jurisdiction;
 - C) the petitioner is not currently seeking to reside in or be licensed to drive in the State of Illinois;
 - D) the state of residence and/or licensure of the petitioner at the time of the Illinois arrests arrest(s) did not take action, or took action

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

against the driving privileges of the petitioner based upon the Illinois arrest and the action has terminated;

- E) but for the revocation in Illinois, the petitioner is not prohibited from obtaining driving privileges in any state or jurisdiction other than Illinois; and
- F) the petitioner has paid all necessary fees due the State of Illinois.

- 2) Out-of-state petitioners granted reinstatement under the provisions of this subsection (k), who subsequently apply for Illinois driving privileges and a driver's license within 3 years from the date of reinstatement in Illinois, shall be required to have an administrative hearing and meet all of the applicable requirements of this Subpart prior to the issuance of any Illinois driving privileges and a driver's license.

- 3) An updated evaluation may not reclassify a petitioner from a previous classification unless the evaluator believes that the previous classification was improper or in error, and justifies and explains in detail why the previous classification was improper or in error and why the new classification is improper and appropriate.

- 1) Revocations for Reckless Homicide and Aggravated DUI Involving a Fatality. A petitioner who has an open revocation for reckless homicide or aggravated driving under the influence that involved a fatality must submit, with his or her petition for driving relief, either a copy of the Order of the circuit court that states the sentence received upon conviction, certified by the Clerk of the Court, or a document from the Department of Corrections that reflects: the offense for which the petitioner was imprisoned; the date of release from imprisonment; and the terms of release or parole. For the purpose of determining a petitioner's eligibility for reinstatement pursuant to Section 6-208(b)1 of the Code, the date of release from imprisonment refers to the imprisonment on the conviction for the offense and does not include release from imprisonment for a violation of parole or probation. It is the responsibility of the petitioner to provide documentation that clearly reflects the date of his/her release from imprisonment.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.440 Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- [a\)](#) Documents/Evidence Required. Except as provided in subsection (a)(1), in any application for reinstatement, an RDP, or the termination of an order of cancellation, all petitioners must submit an alcohol and drug evaluation and, where required, evidence of successful completion of an alcohol and drug-related driver risk education course and/or evidence of successful completion of treatment or proof of adequate rehabilitative progress.
- 1) An alcohol and drug evaluation and the evidence of successful completion of treatment submitted by a resident of Illinois must have been conducted by an individual or an agency licensed by [DASAOASA](#). An alcohol or drug-related driver risk education course completed by an Illinois resident must have been provided by an individual or agency licensed by [DASAOASA](#). (See 77 Ill. Adm. Code 2060.201.) Exceptions to these requirements will be allowed in the cases listed in subsections (a)(1)(A) and (B). In such case, the evaluation and driver risk education course must be provided by an individual or agency accredited by the state in [thatwhich](#) the individual or agency operates:
 - A) if the petitioner is currently and has been temporarily residing outside the State of Illinois (except as provided in Section 1001.100(a)(2)); or
 - B) if the petitioner received treatment for alcohol or drug abuse or dependence from a treatment program located outside the State of Illinois [thatwhich](#) has been appropriately accredited by the state in which it operates.
 - 2) Out-of-state Petitioners. If the petitioner is a resident of another state at the time he or she files a petition for reinstatement of Illinois driving privileges and is, therefore, applying as an out-of-state resident pursuant to Section 1001.100(a), he/she may submit an evaluation, evidence of successful completion of an alcohol and drug-related driver risk education course and/or evidence of successful completion of treatment or proof of adequate rehabilitative progress from the state in which he/she resides or from any other state, so long as the agency [thatwhich](#) provides these services has been appropriately accredited by the state in which it operates.
 - 3) Choice of Programs. The choice of these programs is within the discretion

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

of the petitioner. The evidence submitted must be typewritten, although the evaluator may testify at any hearing.

- 4) Evaluation Standards. The alcohol and drug evaluation (uniform report), as defined in Section 1001.410, must conform to all current~~the~~ standards for an evaluation set by DASA, where applicable, and/or to all current Secretary of State requirements set forth in this Subpart D.~~OASA.~~ (See 77 Ill. Adm. Code 2060.503.) The evaluation must be signed and dated by both petitioner and evaluator. The uniform report must include a recitation of the petitioner's alcohol/drug use history, from first use to present use.
- 5) Driver Risk Education Course. The alcohol and drug-related driver risk education course must, at a minimum, conform to the standards for alcohol/drug driver risk education courses set by DASA~~OASA.~~ (See 77 Ill. Adm. Code 2060.505.) Any alcohol or drug related driver risk education course required by this Part must be completed on a date after the most recent DUI disposition arrest date.
- 6) Evaluation Must Be Current. The alcohol and drug evaluation must be current, which is defined as having been completed within 6 months prior to the date of the hearing. ~~This current evaluation, whether a uniform report or an updated evaluation, must conform to all current OASA standards as referred to in this Section, where applicable, and/or to all current Secretary of State requirements set forth in this Subpart D.~~
 - A) Updated Evaluation. An updated evaluation shall be conducted only by means of an in-person interview and only by the same program which conducted the original evaluation. Exceptions to the latter requirement will be allowed under the following circumstances:
 - 1) Transfer of File. If the petitioner's case file or copies of all case file material are transferred to another program which prepares the update. The agency that conducts the updated evaluation should explain, either in a separate cover letter or in the body of the updated evaluation, how, when and why the petitioner's file was transferred to it. The transfer will be considered acceptable only if the original evaluating program can no longer provide evaluation services for reasons such as a suspended or revoked license or

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

voluntarily terminating evaluation business operations.

When transferring a file, the sending agency shall not allow it to be delivered by the petitioner to the receiving agency.

If an update cannot be obtained by reviewing the original case file information, another original evaluation must be submitted.

- 2) Treatment Provider. If the petitioner completes treatment recommended as a result of the most recent alcohol and drug evaluation, the program providing the treatment may prepare any subsequent updated evaluation from its own case file information without obtaining the information from the evaluating program that made the treatment recommendation.

- B) Updated Evaluation – Content. An updated evaluation shall contain, at a minimum, the following: a description of alcohol/drug use and/or abuse covering the time since the last evaluation or update; the facts of any arrest or citation for a traffic or criminal offense that is, in any way, alcohol/drug-related; any impairment of significant life areas since the last evaluation or update; the evaluator's previous and current alcohol/drug-use classification of the petitioner; any current recommendations and the rationale for such recommendations; and an indication of whether the petitioner has completed all prior recommendations. The updated evaluation must be corroborated by an interview with a family member or significant other. The information obtained must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner. The updated evaluation must be typewritten, on a form provided by the Department, and verified by the evaluator. (See subsection (a)(1) of this Section.)

- 1) Any updated evaluation that reclassifies a petitioner to or within a Moderate, Significant or High Risk classification shall include a referral to a treatment provider for the purpose of determining the need, if any, for additional rehabilitative activity. Any waiver of additional rehabilitative activity by the treatment provider must be in writing and include the rationale for the waiver. Any

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

recommendation for additional rehabilitative activity must be complied with before relief will be granted.

- 2) A petitioner may not submit an updated evaluation if the uniform report evaluation being updated does not discuss the most recent DUI disposition. In such case the petitioner must submit a uniform report evaluation.

- 3) An updated evaluation may not reclassify a petitioner from a previous classification unless the evaluator believes that the previous classification was improper or in error and justifies and explains in detail why the previous classification was improper or in error and why the new classification is proper and appropriate.

- C) Out-of-state Evaluation – Content. An out-of-state alcohol and drug evaluation shall contain, at a minimum, the following: a complete alcohol and drug use history; a history of any alcohol and drug-related offenses; a current alcohol/drug use classification of the petitioner and the rationale for that classification; any recommendations and the rationale for such recommendations. The evaluation must be corroborated by an interview with a significant other and by the administration of an objective test. The information obtained must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner. The evaluation must be verified by the evaluator. The individual or agency that completes the evaluation must be properly accredited or licensed in the state in which the individual or agency operates.

- D) Investigative Evaluation – Content. An investigative alcohol and drug evaluation shall contain, at a minimum, the following: a complete alcohol and drug use history; a history of alcohol and drug-related driving and criminal offenses; a clinical impression of what the evaluation data indicates and the rationale for that conclusion; any recommendations and the rationale for such recommendations. The evaluation must be corroborated by an interview with a significant other and by the administration of an objective test. The information must be summarized and the evaluator should indicate whether it corroborates the data provided

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

by the petitioner. The evaluation must be typewritten, on a form provided by the Department, and verified by the evaluator. The program that completes the evaluation must meet the same standards as programs qualified to prepare uniform report evaluations. (See subsection (a)(1).)

- E) Updated Evaluation Not Required. Petitioners classified at High Risk who have driven successfully on a restricted driving permit for at least 3 years after submitting an original evaluation are not required to provide an updated evaluation if:
- i) the petitioner files for an extension of the RDP or for another hearing during the term of the current RDP; or
 - ii) the current RDP is expired for no more than 30 days at the time the petitioner files for an extension of the RDP or for another hearing.

All other documentation required by this Subpart D must be submitted.

~~7) Any alcohol or drug related driver risk education course required by this Part must be completed on a date after the most recent DUI disposition arrest date.~~

- b) Burden of Proof. Before any driving relief will be granted, the petitioner must prove by clear and convincing evidence: that he/she does not have a current problem with alcohol or other drugs; that he/she is a low or minimal risk to repeat his/her past abusive behaviors and the operation of a motor vehicle while under the influence of alcohol or other drugs; and that he/she has complied with all other standards as specified in this Subpart D. If the evidence establishes that the petitioner has had an alcohol/drug problem, the petitioner must also prove that the problem has been resolved.

- 1) Minimal Risk. Petitioners whose use of alcohol/drugs has been classified under this Section as Minimal Risk must document successful completion of a 10 hour alcohol/drug driver risk education course by submission of a document ~~that~~which reflects the completion of the requirements contained in 77 Ill. Adm. Code 2060.505.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 2) [Moderate and Significant Risk](#). Petitioners whose use of alcohol/drugs has been classified under this Section as Moderate or Significant Risk must document successful completion of an alcohol/drug driver risk education course as specified in subsection (b)(1) and the treatment recommended by the evaluator or other qualified professional recommended on referral by the evaluator. The treatment must be provided by an individual or agency licensed to provide such treatment by [DASA@ASA](#) or the Department of Public Health, or an individual therapist who is licensed as a private practitioner by the Illinois Department of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates.
- 3) [High Risk Dependent](#). Petitioners classified under this Section as High Risk Dependent must document abstinence as required in subsection (e); the completion of treatment provided by a facility or facilitator licensed by [DASA@ASA](#) or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates; the establishment of an ongoing support/recovery program; and compliance with any additional recommendations of his/her evaluator or treatment provider.
- 4) [High Risk Nondependent](#). Petitioners classified under this Section as High Risk Nondependent must document: non-problematic use as provided in subsection (f); treatment provided by a facility or facilitator licensed by [DASA@ASA](#) or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates; compliance with any additional recommendations of his/her evaluator or treatment provider, including abstinence; and a detailed explanation by the treatment provider as to why dependency was ruled out.
- 5) [Investigative Evaluation](#). Petitioners who obtain an investigative alcohol/drug evaluation must document the completion of any recommended treatment provided by a facility or facilitator licensed by [DASA@ASA](#) or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of Professional Regulation, or an out-of-state individual

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

therapist or agency properly licensed by the state in which he/she operates. If found to be chemically dependent, then the petitioner must prove abstinence as required in subsection (e) and the establishment of an ongoing support/recovery program, and compliance with any additional recommendations of his/her evaluator or treatment provider.

- 6) [Treatment Waiver Required](#). In the event that a treatment provider does not require an individual classified Moderate, Significant or High Risk to complete at least the minimum amount and type of intervention or treatment specified by [DASAOASA](#), the treatment provider must supply the Department with a detailed explanation of the rationale for that decision.
- c) [Rebuttable Presumption](#). The presence of more than one DUI disposition on a petitioner's abstract shall create a rebuttable presumption that the petitioner suffers from a current alcohol/drug problem and should, therefore, be classified at least Significant Risk.
- d) [Evidence Considered](#). Evidence which shall be considered in determining whether the petitioner has met his/her burden of proof and has overcome the presumption of a current alcohol/drug problem includes, but is not limited to, the following, where applicable:
 - 1) The factors enumerated in Section 1001.430(c);
 - 2) The similarity of circumstances between alcohol or drug-related arrests;
 - 3) Any property damage or personal injury caused by the petitioner while driving under the influence;
 - 4) Changes in life style and alcohol/drug use patterns following alcohol/drug-related arrest, and the reasons for the change;
 - 5) The chronological relationship of alcohol/drug-related arrests;
 - 6) Length of alcohol/drug abuse pattern;
 - 7) Degree of self-acceptance of alcohol/drug problem;
 - 8) Degree of involvement in or successful completion of prior

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

treatment/intervention recommendations following alcohol/drug related arrests and in a support/recovery program;

- 9) Prior relapses from attempted abstinence;
- 10) Identification, treatment and resolution of the cause of the high risk behavior of any petitioner classified High Risk Nondependent;
- 11) The problems, pressures and/or external forces alleged to have precipitated the petitioner's abuse of alcohol or other drugs on the occasion of each alcohol/drug-related arrest, and the present status of the same, particularly whether they have been satisfactorily resolved;
- 12) The petitioner's explanation for his/her multiple arrests and/or convictions for offenses involving alcohol/drugs, particularly for allowing the second and subsequent arrests/convictions to occur;
- 13) In out-of-state petitions, the evaluator's rationale for classifying a petitioner with multiple DUI dispositions as a Minimal or Moderate Risk. In these cases it is particularly important that the evaluator's classification be based on complete and accurate information;
- 14) The petitioner's criminal history, particularly drug offenses or offenses that in any way involved alcohol/drugs;
- 15) The petitioner's chemical test results of the petitioner's blood, breath or urine from all previous arrests or all previous alcohol/drug-related offenses (not just traffic offenses) in addition to the chemical test results of the most recent arrest;
- 16) The extent to which, in terms of completeness and thoroughness, a petitioner and his/her service providers have addressed every issue raised by the hearing officers in previous hearings;
- 17) It is particularly important that the evaluator's classification be based on complete, accurate and consistent information, especially all of the petitioner's DUI arrests and BAC test results. The probative value of evaluations ~~that~~ which deviate from this standard will be diminished. The degree to which their probative value will be diminished will depend upon the degree to which the evaluation deviates from this standard and the

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

standards imposed by [DASA](#) ~~OASA~~;

18) The petitioner's record of performance while driving with an interlock device and his/her record of compliance with the terms and conditions of the breath alcohol ignition interlock device program;

19) [Written or verbal statements from members of the public, including crime victims as defined in the Code of Criminal Procedure \[725 ILCS 120/3\] or family members of victims of offenses committed by a petitioner, so long as the statement is relevant to the issues at the hearing.](#)

e) [Documentation of Abstinence](#)

1) Petitioners classified as High Risk Dependent, or any other petitioner with a recommendation of abstinence by a ~~DASA~~ [OASA](#) licensed evaluator or treatment provider, must have a minimum of 12 consecutive months of documented abstinence. Documentation of abstinence must be received from at least 3 independent sources. The sources should not be fellow members of a support group unless those members have regular and frequent contact with the petitioner outside the group meetings. The hearing officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Letters or witness testimony establishing abstinence should contain, at a minimum, the following:

~~A1)~~ The person's relationship to petitioner (friend, family member, fellow employee, etc.).

~~B2)~~ How long the person has known the petitioner.

~~C3)~~ How often the person sees the petitioner (daily, weekly, monthly, etc.).

~~D4)~~ How long the person knows the petitioner has abstained.

~~E5)~~ Each letter must be dated and signed by its authors. All letters must be submitted in their original form and should be dated no more than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted into evidence

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer.

2) Waivers of the rule requiring 12 months of abstinence are discretionary when considering an RDP but shall not be granted unless the petitioner proves at least 6 months continuous abstinence at the time of the hearing.

f) Documentation of Non-Problematic Use

1) Petitioners classified as High Risk Nondependent must demonstrate at least 12 consecutive months of non-problematic alcohol use, or abstinence, and abstinence from the use of illegal drugs. This evidence must be submitted from at least 3 independent sources and generally comply with the standards set forth in subsection (e).

2) Waivers are discretionary when considering an RDP, but shall not be granted unless the petitioner demonstrates at least 6 months of non-problematic alcohol use, or abstinence, and abstinence from the use of illegal drugs.

g) Documentation of Support/Recovery Program

1) If the petitioner has been attending a support/recovery program, the petitioner must present at least 3 dated and signed letters or witness testimony from fellow support/recovery program members documenting at a minimum the following:

A+) How long the person has known the petitioner;

B2) How long the person knows that the petitioner has attended the program;

C3) How often the petitioner attends the program.

2) The hearing officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Each letter must be dated and signed by its authors. All letters must be submitted in their original form and should be dated no more than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

into evidence pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer.

h) [Internet Support/Recovery Programs](#). A petitioner's participation in internet Alcoholics Anonymous, Narcotics Anonymous or other support/recovery program "chat rooms" or any other support/recovery program services available over the internet is not an acceptable substitute for the regular attendance of meetings in person. However, such participation will be considered as probative of the extent of the petitioner's involvement in a support/recovery program; i.e., as a supplement to the regular attendance of meetings in person.

i) [Non-Traditional Support/Recovery Programs](#)

1) If the petitioner's support/recovery program does not involve a structured, organized, recognized program such as A.A. or N.A., the petitioner is required to identify what that program is and explain how it works and keeps petitioner abstinent. The petitioner is required to present either witness testimony or written verification of the program from at least three independent sources involved in the program. If the verification is in the form of letters, those letters should be signed and dated. All such evidence must contain, at a minimum, the following:

A4) The person's relationship to the petitioner (friend, family member, fellow employee, etc.);

B2) How long the person has known the petitioner;

C3) How often the person sees the petitioner (daily, weekly, monthly, etc.);

D4) How the person is involved in the petitioner's recovery program and what role the person plays in helping the petitioner abstain from alcohol/drugs;

E5) What changes the person has seen in the petitioner since petitioner's abstinence.

2) The hearing officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Each letter must be dated

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

and signed by its authors. All letters must be submitted in their original form and should be dated no more than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted into evidence pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer.

- j) Support/Recovery Program Sponsor. If the petitioner has a support/recovery program sponsor, ~~a~~ letter should be obtained (or the testimony submitted) from his/her sponsor documenting the data in subsection (g)(1). The purpose of a letter or the testimony of an A.A. sponsor is to provide the Secretary with substantial detail regarding the petitioner's progress and development in the A.A. program. However, this letter or testimony can also be used to satisfy the requirements of subsection (g). The submission of a letter from a petitioner's sponsor is not mandatory, but is strongly recommended. A petitioner's failure to submit a letter from his/her sponsor is not, by itself, a sufficient basis upon which to deny driving relief.
- k) RDP for Support/Recovery Program – Information Required. In cases where a petitioner seeks a restricted driving permit to allow him/her to drive to support/recovery program meetings, he/she must provide specific information identifying, at a minimum, the following:
- 1) The locations of the meetings he/she wishes to attend;
 - 2) The days of the week when meetings are held at these locations;
 - 3) The hours of the day when these meetings are held.
- l) Early Intervention – Information Required. If the petitioner has undergone early intervention (Moderate Risk classification), he/she must provide a narrative summary ~~that~~which includes, at a minimum, the following:
- 1) The name, address, and telephone number of the licensed service provider;
 - 2) The dates the petitioner began and completed early intervention, as well as the number of days or hours he/she was involved in the intervention process;
 - 3) A summary discussion of the intervention provided and its outcome, specifically, those issues that were addressed or explored and the

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

provider's perception of what the petitioner gained from the experience and his/her ability to avoid future development of alcohol problems;

- 4) The rationale for any modification in the early intervention requirements specified by [DASAOASA](#);
 - 5) The dated signature of the professional staff person providing the early intervention information.
- m) [Treatment – Information Required](#). If the petitioner has had alcohol or drug related treatment, he/she must provide the following information:
- 1) A narrative summary ~~that~~~~which~~ includes, at a minimum:
 - A) The name, address, and telephone number of treatment center;
 - B) The date the petitioner entered treatment and the date the petitioner was discharged from treatment; the number of days or hours the petitioner was involved in treatment; the admitting and discharge diagnosis;
 - C) The type of treatment received (e.g., outpatient, intensive outpatient, or inpatient treatment; individual or group therapy);
 - D) A clinical impression or prognosis of either a Moderate or Significant Risk petitioner's ability to maintain a non-problematic pattern, or a High Risk petitioner's ability to maintain a stable recovery where applicable. Specifically, the treatment provider's perception of ~~what~~~~that~~ the petitioner gained from the treatment experience and whether the experience was sufficient to substantially minimize the possibility of a recurrence of alcohol/drug related problems;
 - E) Any recommendations for continuing care or follow-up support, and an indication of the petitioner's participation, if applicable;
 - F) The rationale for any modification in the treatment requirements specified by [DASAOASA](#);
 - G) The dated signature of the professional staff person providing the

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

treatment information.

- 2) Copies of the following documents required by [DASA/OASA](#):
 - A) Individualized Treatment Plan. (See 77 Ill. Adm. Code 2060.421.)
 - B) Discharge Summary and Continuing Care Plan. (See 77 Ill. Adm. Code 2060.427.)
- 3) A current status report regarding the petitioner's involvement in continuing care. This report must discuss the petitioner's level of progress in completing follow-up activities outlined in the Continuing Care Plan. If continuing care has been completed, a summary report must be provided [thatwhich](#) discusses the petitioner's progress throughout the course of completing all follow-up activities detailed in the Continuing Care Plan. If continuing care has been determined to be unnecessary, a report must be provided [thatwhich](#) discusses the clinical rationale for that decision.
- 4) If the petitioner is unable to provide the required information, he/she must provide documentary evidence of his/her attempts to obtain the information and the reason for its unavailability.
- n) [Evaluation Written for Court](#). If a petitioner presents an alcohol/drug evaluation that was obtained as a condition precedent to either obtaining a JDP or the disposition of a DUI charge, that evaluation must meet the requirements of this Section in order to be accepted by the Secretary of State.
- o) [Out-of-state Petitioners – Evaluation Not Required](#). Out-of-state petitioners whose last arrest for driving under the influence occurred more than 10 years from the date of the current application for relief may be excused from the requirement of an evaluation if the other evidence required of the petitioner, as set out in this subsection, indicates that the petitioner does not have a current problem with alcohol or other drugs; that, if the petitioner has had an alcohol problem, it has been resolved; that the petitioner is now a low or minimum risk to repeat his/her past abusive behaviors and the operation of a motor vehicle while under the influence of alcohol or other drugs; and that the petitioner can now be considered a safe and responsible driver. The rationale for this subsection is that the length of time since the petitioner's last DUI arrest indicates he/she is no longer a dangerous driver, and that Illinois' interest in a driver who no longer resides in this State is less than in one who resides in Illinois. Therefore, this

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

exception does not apply to petitioners who reside within 30 miles of the Illinois border.

- 1) Petitioner must submit, at a minimum, the following evidence:
 - A) An affidavit regarding his/her alcohol/drug use, on a form provided by the Secretary of State;
 - B) At least 3 letters of reference ~~that~~~~which~~, at a minimum, verify the frequency and amount of the petitioner's alcohol/drug use for at least the last 12 months prior to the hearing. The letters should also discuss the petitioner's character and ability to be a safe and responsible driver. The author must state how long he/she has known the petitioner, how often he/she sees, speaks to, or otherwise has contact with the petitioner, the nature of the contact, and the nature of their relationship;
 - C) If the petitioner was required to participate in an alcohol/drug evaluation after his/her last arrest for driving under the influence, then the petitioner must submit a copy of that evaluation;
 - D) If the petitioner has received treatment for alcohol/drug abuse, then he/she must submit a copy of the discharge summary of that treatment (written by the agency ~~that~~~~which~~ provided the treatment);
 - E) Petitioners who have been identified as or believe themselves to be alcoholic/chemically dependent must fulfill the requirements of subsection (b)(3) pertaining to abstinence and the establishment of an ongoing support/recovery program;
 - F) Credible evidence of his/her driving record in the current state of residence. The Secretary of State may also obtain this evidence;
 - G) Any other relevant evidence ~~which~~ the petitioner desires to provide.
- 2) Upon receipt of this evidence, it shall be reviewed by the Director of the Department, or a duly appointed hearing officer designated by the Director, for the purpose of determining whether the requirement of an

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

alcohol/drug evaluation should be waived and the out-of-state petition disposed of based upon the evidence listed in subsection (o)(1). The factors recited in subsection ~~(e)(d)~~ shall be utilized and applied in making this determination.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.441 Procedures for Breath Alcohol Ignition Interlock Device Conditioned RDPsa) BAIID Required for RDP; Fee Required

1) The issuance of RDPs to a BAIID petitioner shall be conditioned upon the use of a Breath Alcohol Ignition Interlock Device (BAIID), as required by Sections §§ 6-205, 6-206 and/or 11-501 of the IVC. As provided in these Sections, a BAIID petitioner must pay a non-refundable fee of \$20 per month on an annual basis, for a total annual payment of \$240. This total annual payment must be paid in advance and prior to the issuance of any permit. Payment must be submitted in the form of a money order, check, or a credit card charge (with a pre-approved card), made payable to the Secretary of State. This fee must be paid by all petitioners for the issuance of restricted driving permits at any hearing conducted on or after 9 November 2001. The payment of the fee also applies to any petitioner who was issued a BAIID permit prior to 9 November 2001 and whose driving record requires that he/she install an interlock device according to the definition set forth in P.A. 92-418 (see Sections §§ 6-205(c) and (d) and 6-206(c)3 of the IVC), and who petitions for a hearing to renew his/her restricted driving permits on or after 9 November 2001. Anyone driving on a BAIID permit on 9 November 2001 and whose driving record does not require that he/she operate a vehicle with a BAIID according to the definition set forth in P.A. 92-418, must nonetheless drive with the BAIID until the expiration of his/her permits (without payment of the above-referenced fee). Thereafter, such a petitioner is entitled to renew the restricted driving permits without the installation of the interlock device.

2) A BAIID petitioner who is renewing restricted driving permits and who also is eligible for the full reinstatement of driving privileges less than 12 months from the date of the expiration of the current restricted driving permits at the time he/she renews the permits, shall not be required to

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

make an annual payment. If the petitioner has been scheduled for a formal hearing on a petition for reinstatement at the time of renewal, then petitioner shall pay the above-referenced fee in an amount equal to the number of months between the date of renewal and date of the hearing, plus an additional 3 months (not to exceed 12 months), times \$20. If the petitioner does not have a formal hearing on a petition for reinstatement scheduled at the time of renewal, then the fee shall be paid for 9 months. If, however, the petitioner is denied full reinstatement, then the petitioner must resume payment on an annual basis.

- b) Notification of BAIID Requirements. The Secretary shall notify any BAIID petitioner who requests a hearing of the procedures for obtaining a BAIID and the BAIID requirements. Notification may be accomplished in one of the following ways, though not limited thereto: informal hearing officer; phone contact; written notification, or by electronic mail.
- c) Type of Hearing Required. All hearings involving a BAIID petitioner seeking driving relief shall be formal hearings. Any extension or modification of an RDP issued under this Section may be done at an informal hearing. Any hearing involving a BAIID petitioner shall be conducted as any other hearing under this Part and all other applicable standards shall apply.
- d) Petitioner Must Meet Requirements of Subpart D. The Secretary shall issue an RDP to a BAIID petitioner if, through the hearing process, the petitioner is determined to meet all of the requirements of this Subpart D and installs and utilizes a device in all motor vehicles operated by the BAIID petitioner and, where applicable, all motor vehicles owned by the BAIID petitioner as required by the RDP issued under this Subpart D. BAIIDs shall not be installed on and BAIID permittees shall not operate motorcycles or motor driven cycles.
- e) Hearing Officer's Responsibilities; Petitioner's Responsibilities. Prior to the taking of evidence at the hearing:
 - 1) The hearing officer shall make sure that the BAIID petitioner understands: all of the provisions and requirements of receiving a BAIID permit; that to obtain an RDP the BAIID petitioner must minimally meet all of the requirements of Section 1001.440 of this Subpart D and install and utilize the device; that a BAIID petitioner's agreement to install a BAIID or willingness to comply with the BAIID requirements does not guarantee issuance of an RDP; and that all costs associated with the device are the

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

responsibility of the BAIID petitioner; and

- 2) The BAIID petitioner shall advise the hearing officer that he/she understands all of the provisions and conditions of the BAIID requirements and whether he/she agrees to comply with the BAIID requirements. If the BAIID petitioner is unwilling to use the device, or comply with this Section, he/she shall be advised that restricted driving permits cannot be granted.

f) Decision. After the hearing, the hearing officer shall consider the evidence and the relief requested and make a recommendation as in any other hearing under this Part.

- 1) If the hearing officer does not determine that the relief requested should be granted, an order denying relief shall be prepared.
- 2) If the hearing officer determines that an RDP should be granted, an order granting a RDP shall be prepared with the additional requirement that the RDP is conditioned upon the installation and continued use of the device. All RDPs issued under this Section shall require continued use of the device until the driving privileges of the petitioner are reinstated.

g) Installation of BAIID. Upon the issuance of an RDP under this Section, the Secretary shall send a list of certified BAIID providers to the BAIID permittee. In addition to the other requirements under this Part, the BAIID Permittee may operate the vehicle for 14 days from the issuance of the RDP without the device installed only for the purpose of taking the vehicle to a BAIID provider or installer for installation of the device. The installer or BAIID provider must notify the Secretary that a device has been installed in the vehicles designated by the BAIID permittee within 7 days from the date of the installation of the device. Proof of installation shall be by such means as determined by the Secretary from the installer or BAIID provider. Failure to comply with these requirements will result in the denial of driving relief and the cancellation of any RDP issued.

h) Petitioner's Responsibilities – Driving with BAIID. Any BAIID petitioner receiving an RDP under this Section must comply with the following requirements:

- 1) Operate only vehicles with an installed, operating device authorized by the Secretary whether the vehicle is owned, rented, leased, loaned, or

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

otherwise in the possession of the BAIID permittee as required by the RDP issued under this Section.

- 2) Take the vehicle with the device installed to the BAIID provider or installer or send the appropriate portion of the device to the BAIID provider or installer within the first 30 days for an initial monitor report to help the BAIID permittee learn how to correctly use the device, and thereafter not longer than every 60 days for the purposes of calibration and having a monitor report of the device's activity prepared and sent to the Secretary by the BAIID provider or installer.
 - 3) Take the vehicle with the device installed to the BAIID provider or installer or send the appropriate portion of the device to the BAIID provider or installer as instructed for a monitor report within 5 working days after any service or inspection notification.
 - 4) Maintain a journal of events surrounding unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the device. If BAIIDs have been installed on multiple vehicles pursuant to Section 1001.443, a separate journal must be kept for each vehicle, recording unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the device, and recording the name of the driver operating the vehicle at the time of the event.
 - 5) May not have an interlock device removed or deinstalled from his or her vehicle without first notifying the Secretary and surrendering to the Secretary or his designee the permittee's restricted driving permit.
- i) Review of Monitor Reports; Sanctions for Failure to Comply. Upon receipt or nonreceipt of the monitor reports, the Secretary shall review them and take the following action. The failure of the BAIID permittee to comply with the requirements of this Subpart D will be made part of his/her record of performance to be considered at future formal hearings.
- 1) For any BAIID permittee who fails to take a vehicle with the device in for timely monitor reports or send the appropriate portion of the device, utilizing a traceable package delivery service, to the BAIID provider or installer for timely monitor reports, send a letter to the BAIID permittee indicating that if the device is not taken in for a monitor report within 10

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

days after the date of the letter, the failure to comply will be made part of his/her record of performance;

- 2) For any BAIID permittee whose monitor reports show 10 or more unsuccessful attempts to start the vehicle, or a failure to successfully complete a running retest, during the initial monitor period, send a warning letter to the BAIID permittee indicating that future unsuccessful attempts to start the vehicle or failure to successfully complete a running retest will result in the Secretary sending a letter to the BAIID permittee asking for an explanation of the unsuccessful attempts to start the vehicle or the failure to successfully complete a running retest;
- 3) For any BAIID permittee whose monitor reports show 10 or more unsuccessful attempts to start the vehicle after the initial monitor report period, send the BAIID permittee a letter asking for an explanation of the unsuccessful attempts to start the vehicle. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;
- 4) For any BAIID permittee whose monitor reports show a failure to successfully complete a running retest, after the initial monitor report period, send the BAIID permittee a letter asking for an explanation of the failure to successfully complete a running retest. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonable assure the Secretary, the failure to comply will be made part of his/her record of performance;
- 5) For any BAIID permittee whose monitor reports show a BrAC reading of 0.05 or more or a pattern of BrAC readings consistent with the use of alcoholic beverages, regardless of any other provision contained in this Section, there shall arise a rebuttable presumption that the BAIID permittee consumed alcoholic beverages. The presumption may result in the cancellation of the RDP if the BAIID permittee is required to abstain from alcohol/drugs (whose alcohol/drug use was classified at High Risk-Dependent), ~~claimed abstinence at the time of the hearing, or agreed at the~~

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

~~hearing not to consume alcohol to the point of attaining a BrAC of 0.025 while attempting to drive a vehicle.~~ In every case, the Secretary shall send a letter asking for an explanation of the BrAC reading or the pattern of BrAC readings consistent with the use of alcoholic beverages. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that the BAIID permittee did not consume alcoholic beverages, no further action will be taken. If a response from a BAIID permittee whose alcohol/drug use was classified at High Risk-Dependent is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance and the Secretary shall cancel the RDP and authorize the immediate removal/deinstallation of any BAIID. If a response from a BAIID permittee whose alcohol/drug use was classified at something other than High Risk-Dependent is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;

- 6) For any BAIID permittee who was arrested/stopped by the police for an alcohol/drug related offense, failed a running retest, or failed to take a running retest, if the police officer's report indicates the use of alcoholic beverages and/or drugs, the Secretary shall send the BAIID permittee a letter asking for an explanation of the incident. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;
- 7) For any BAIID permittee whose initial monitor or monitor reports show any tampering with or unauthorized circumvention of the device or physical inspection by an installer shows any tampering with or unauthorized circumvention of the device, the Secretary shall immediately cancel the RDP and authorize the immediate removal/deinstallation of the device.

j) Immediate Cancellation of BAIID Permit. Receipt of any one of the following shall also be grounds for immediate cancellation of an RDP issued under this Section:

- 1) Any law enforcement report showing operation of a vehicle by a BAIID

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

permittee without a device as required by the RDP issued under this Section. The law enforcement officer shall, at the time of the stop, confiscate the RDP and send it, or a copy of it, along with the report, to the Secretary;

- 2) Notification from a BAIID provider or installer on a removal/deinstallation report form stating that the device installed in a BAIID permittee's vehicle has been removed and/or is no longer being utilized by the permittee, as required by subsection (d), including a removal or deinstallation caused by the BAIID permittee's failure to pay lease or rental fees due to the BAIID provider, unless the permittee has notified the Secretary that he or she is no longer utilizing the device and surrendered the BAIID permit to the Secretary as required in subsection (h);
 - 3) Any law enforcement report involving a DUI arrest or other law enforcement report indicating use of alcohol in violation of Subpart D.
- k) Hearing to Contest Cancellation of BAIID Permit. Any BAIID permittee whose RDP is cancelled as provided for in this Section may request a hearing to contest the cancellation within 60 days from the effective date of the cancellation. Such a hearing will be scheduled and held on an expedited basis. The hearing will be conducted as any other formal hearing under this Part. Any BAIID permittee whose RDP is cancelled under the provisions of this Section and who: is required to abstain from alcohol/drugs (whose alcohol/drug use was classified at High Risk-Dependent); claimed abstinence at the time of the hearing; or agreed at the hearing not to consume alcohol to the point of attaining a BrAC of 0.025 while attempting to drive a vehicle; and who admits to consuming alcoholic beverages may not request a hearing to contest the cancellation.
- l) No Hearing for 12 Months After Cancellation. Any BAIID permittee whose RDP is cancelled for any reason as provided for in this Section shall not be granted another hearing for any type of driving relief for one year from the date of the cancellation, except to contest the cancellation as provided in subsection (k). This provision does not apply to BAIID permittees who: voluntarily have surrendered their RDPs; have not committed any offense or act that would be grounds for the cancellation of their RDPs; or are able to demonstrate that he/she was not the perpetrator of the offense or conduct which otherwise would be grounds for the cancellation of his/her RDPs.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- m) Formal Order – Content. Any formal order entered which grants the issuance of an RDP as provided for in this Section shall, in addition to all other requirements, clearly indicate the following:
- 1) That the RDP is issued conditioned upon BAIID installation and proper usage of the BAIID by the permittee; and
 - 2) That the BAIID permittee is aware of all conditions and terms of BAIID installation and proper usage of the BAIID, and he or she accepts those conditions and terms as conditions precedent to the issuance of the RDP.
- n) RDPs – Content. Any RDPs issued as provided for in this Section shall, in addition to all other requirements, clearly indicate:
- 1) That the RDP is issued pursuant to the BAIID requirements of this Section, and that a vehicle operated by a BAIID permittee must be equipped with an installed, properly operating device;
 - 2) That the provisions of the RDP also allow the BAIID permittee to drive to and from the BAIID provider or installer for the purposes of installing the device within 14 days after the issuance of the RDP, or obtaining monitor reports, and any necessary servicing.
- o) Use of Monitor Reports. The Secretary shall gather all monitor reports and any other information relative to the permittee's performance and compliance with the BAIID requirements under this Subpart D. Such reports may be used as evidence at any administrative hearing conducted by the Secretary under this Part.
- p) Modification or Waiver of BAIID. The Secretary may make a medical or physical BAIID modification or waiver for RDPs issued under this Section.
- q) Employment Exemption from BAIID Requirements. In determining whether a BAIID permittee is exempt from the BAIID requirements pursuant to the waiver provided for in Sections 6-205 and 6-206 of the IVC, the following shall apply:
- 1) The term "employer" shall not include an entity owned or controlled in whole or in part by the permittee or any member of the permittee's immediate family, unless the entity is a corporation and the permittee and the permittee's immediate family own a total of less than 5% of the outstanding shares of stock in the corporation. Immediate family shall

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

include spouse, children, children's spouses, parents, spouse's parents, siblings, siblings' spouses and spouse's siblings;

- 2) The exemption shall not apply where the employer's vehicle is assigned exclusively to the BAIID permittee and used solely for commuting to and from employment.

r) Decertification of BAIID Providers and BAIID Device. The Secretary must notify the BAIID permittee of the decertification of a BAIID provider or the decertification of a particular type of BAIID. The BAIID permittee must then select a new BAIID provider or type of BAIID from the list of approved BAIID providers maintained by the Secretary. The BAIID permittee must inform the Secretary of that selection within 7 days after the receipt of notification from the Secretary. The BAIID permittee must complete registration with a new BAIID provider and/or installation of a new BAIID within 21 days after the receipt of the notification from the Secretary. Failure to complete these steps within the 21-day period may result in cancellation of the BAIID permittee's RDP. All costs related to any change in BAIID provider or BAIID shall be paid by the BAIID permittee.

s) Reciprocity with Other States. The Secretary will honor the BAIID requirements imposed by other states on Illinois drivers and drivers licensed in other states, for offenses committed in other states; and will reciprocate other state's recognition of BAIID requirements imposed by Illinois on drivers licensed in Illinois, or licensed in other states for offenses committed in Illinois.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.443 Breath Alcohol Ignition Interlock Device Multiple Offender – Compliance with Interlock Program

a) Ownership Defined. For the purposes of this Section, a person "owns" a vehicle when it is registered in his or her name, regardless of whether it is registered solely in his or her name or jointly with another person or persons.

b) Certification of Installation Required

1) Anyone who is required to install an interlock device on all vehicles which he or she owns, pursuant to §§6-205(h) and 11-501(i) of the IVC, and who is granted any driving relief pursuant to Subpart D of this Part, shall

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

certify to the Secretary, in the manner stated in subsection (c), that he or she has installed an interlock device on all vehicles he or she owns within 14 days after the issuance of driving relief. The offender must maintain an interlock device on each vehicle for a period of 12 consecutive months.

2) For purposes of subsection (b)(1), the period of 12 consecutive months begins on the date the petitioner certifies that an interlock device has been installed on all vehicles he or she owns and ends 12 months later. This shall be known as the "base period". The base period remains the same regardless of whether the petitioner adds or replaces vehicles during the 12 consecutive months.

c) Manner of Certification – Affidavit Required

1) A BAIID multiple offender shall certify compliance with the interlock program by filing an affidavit with the Secretary which states that the offender installed an interlock device on all vehicles he or she owns and which lists, by make, model, and registration plate number, each and every vehicle that the offender owns, the name and address of the installer, the date installed, and any other information deemed necessary by the Secretary. The offender must submit one certification listing all of the vehicles that he or she owns on a form provided by the Secretary. This certification must be submitted within 7 days after the date of the final installation. The failure to submit this certification within the time allowed will result in the immediate cancellation of the driving relief issued.

2) The offender must submit another, complete affidavit whenever he or she buys another vehicle, sells a vehicle listed on the affidavit, or changes the installer. This new certification must be submitted within 7 days after the date that one of these transactions is finalized. The failure to submit this certification within the time allowed will result in the immediate cancellation of the driving relief issued.

d) Verification of Compliance. The Secretary shall verify compliance by conducting periodic random checks of the information contained in the affidavits filed by BAIID multiple offenders, and by monitoring compliance with the terms and conditions of the interlock requirements as provided in Section 1001.441.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 1) If the Secretary finds evidence of non-compliance with the affidavit requirements, then the Secretary will send the offender a letter asking for an explanation for the alleged violation. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will result in the immediate cancellation of the driving relief issued. The cancellation shall continue until the offender submits the proper affidavit. BAIID multiple offenders whose driving privileges are cancelled due to violation of the affidavit requirements will be required to certify installation of another BAIID and compliance with the affidavit requirements of this Section for another 12 consecutive months from the date that their compliance is re-certified;
- 2) If the Secretary finds evidence of non-compliance with the terms and conditions of the interlock requirements by a BAIID multiple offender whose driving privileges have been reinstated, then the offender's driving privileges will be cancelled for a term of 3 months on the first violation, 6 months on the second violation, and 12 months on the third and subsequent violations. At the end of the period of cancellation, the offender will be required to certify installation of another BAIID and compliance with the affidavit requirements of this Section for another 12 consecutive months from the date that his/her compliance is re-certified;
- 3) The offender may contest a cancellation entered pursuant to this Section by filing a petition for a formal hearing pursuant to §2-118 of the Code.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.450 New Hearings

- a) Relief Denied. If a petitioner is denied relief after a formal hearing conducted pursuant to Subpart A, either for cause or upon default, another formal hearing will not be granted to that petitioner regarding the same relief requested at the last hearing until at least 120 calendar days have elapsed since the date of the hearing. Furthermore, a request for another formal hearing will not be accepted for 30 days from the date of the last hearing. A petitioner who is denied relief after a formal hearing must wait 30 calendar days before presenting himself or herself for an informal hearing.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- b) Decision Pending. The Department will not accept a request for a hearing from a petitioner or a party requesting a hearing to contest an action taken by a department of the Secretary of State while a decision is pending on a hearing regarding the same issue or issues.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

Section 1001.460 Requests for Modification of Revocations and Suspensions

- a) No Rescission. Revocations and suspensions will not be rescinded, except as provided by law or rule.
- b) Early Termination of Suspensions. Consideration for early termination of suspension may be given to a petitioner under the following conditions:
- 1) No serious accidents on past record, as defined by Sections 6-205(a) and (b) and 6-206(a) of the Code.
 - 2) No violations for at least 6 months, and no prior revocations or suspensions on the petitioner's driving record.
 - 3) Extent of petitioner's culpability.
 - 4) The extent to which a petitioner is able to present credible evidence that he/she has cooperated with law enforcement authorities in the investigation, apprehension, and prosecution of persons for violations of the Illinois Vehicle Code, particularly those related to: underaged drinking; the possession, display, use, attempted use, distribution or manufacture of fraudulent or fictitious driver's licenses, permits, or identification cards; and the possession, display, fraudulent use, attempted fraudulent use, or distribution of driver's licenses, permits, or identification cards not issued to the petitioner.
- c) No Reduction or Modification. Mandatory revocations and suspensions cannot be reduced or modified in any way.
- d) Discretionary Revocations and Discretionary Suspensions. A discretionary revocation may be reduced to a 12 month suspension. ~~or the~~ The period of a discretionary suspension may be reduced for good cause shown. However, a discretionary revocation shall not be reduced to a 12 month suspension and then

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

the suspension reduced. Factors to consider include prior revocations or suspensions (suspensions under the Illinois Safety Responsibility Law [625 ILCS 5/Ch. 7] and Sections 6-306.3; and 13A-112 of the Code notwithstanding), and the seriousness of the offenses. The petitioner must demonstrate that he/she is a low risk for repeating his/her behavior in the future. Other factors may be considered by the hearing officer.

- e) Credit for Out-of-state and Military Offenses. Credit may be given to petitioners whose Illinois driving privileges have been suspended or revoked pursuant to ~~Sections~~Section 6-203.1, 6-206(a)6, or 6-514 of the Code for an out-of-state implied consent suspension, conviction, or disqualification for an offense that~~which~~, if committed in Illinois, would be grounds for suspension or revocation, and whose driving privileges were suspended or revoked in that state or, if the petitioner is a member of the armed forces at the time of the offense and his/her Illinois driving privileges have been suspended or revoked pursuant to Sections 6-206(a)6 or (a)24 of the Code, if the petitioner's military installation driving privileges were suspended or revoked as a result of his/her arrest or conviction for such an offense. The petitioner must also demonstrate that the suspension or revocation created an undue hardship affecting his/her ability to go to work and perform daily tasks, in that state. Such credit shall be given against the Illinois suspension or revocation for the same length of time actually served on the out-of-state or military suspension or revocation prior to the effective date of the Illinois suspension or revocation. A discretionary revocation will be modified to a suspension and terminated early, or the date of eligibility for full reinstatement of Illinois driving privileges shall be advanced.
- f) Modifications Limited. Suspension periods are set by rule (see 92 Ill. Adm. Code 1040) of the Department of Driver Services to apply equally to all persons. Modifications in any way should be granted in only limited cases. This procedure should be used rarely and the reasons should be fully documented on the record.

(Source: Amended at 28 Ill. Reg. 12123, effective September 1, 2004)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.523 Emergency Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 93-0841
- 5) Effective Date: August 11, 2004
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date Filed with the Index Department: August 11, 2004
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments are necessary pursuant to Public Act 93-0841. Payable bed reserves for temporary hospitalizations are being reinstated for nursing facilities that have a 93 percent or higher total occupancy level when 90 percent or more of all residents are Medicaid eligible. Emergency rulemaking is specifically authorized for the implementation of these changes for fiscal year 2005 by Section 5-45 of Public Act 93-0841.
- 10) Complete Description of the Subjects and Issues Involved: Payable bed reserves for nursing facilities are being reinstated pursuant to Public Act 93-0841. Payments for temporary hospitalizations will be made at 75 percent of the resident's current Medicaid per diem for up to ten days per hospitalization. Nursing facilities eligible for these bed reserve payments are those having a 93 percent or higher total occupancy level with 90 percent or more of the total occupancy level comprised of Medicaid eligible residents.

The Department estimates that the reinstatement of bed reserve payments to nursing facilities during temporary hospitalizations will result in an additional annual cost of \$5 million.

- 11) Are there any other amendments pending on this Part? Yes

Section Numbers: Proposed Action Illinois Register Citation

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

140.80	Amendment	April 9, 2004 (28 Ill. Reg. 5749)
140.82	Amendment	April 9, 2004 (28 Ill. Reg. 5749)
140.84	Amendment	April 9, 2004 (28 Ill. Reg. 5749)
140.452	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.453	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.454	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.455	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.456	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.645	Amendment	February 27, 2004 (28 Ill. Reg. 3700)

12) Statement of Statewide Policy Objective: These emergency amendments neither create nor expand any State mandates affecting units of local government.

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

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

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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

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

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

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

SUBPART C: PROVIDER ASSESSMENTS

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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

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

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

- Section
- 140.400 Payment to Practitioners

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

- 140.454 Types of Mental Health Clinic Services
- 140.455 Payment for Mental Health Clinic Services
- 140.456 Hearings
- 140.457 Therapy Services
- 140.458 Prior Approval for Therapy Services
- 140.459 Payment for Therapy Services
- 140.460 Clinic Services
- 140.461 Clinic Participation, Data and Certification Requirements
- 140.462 Covered Services in Clinics
- 140.463 Clinic Service Payment
- 140.464 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 Home Health Services
- 140.471 Home Health Covered Services
- 140.472 Types of Home Health Services
- 140.473 Prior Approval for Home Health Services
- 140.474 Payment for Home Health Services
- 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
- 140.480 Equipment Rental Limitations
- 140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
- 140.482 Family Planning Services
- 140.483 Limitations on Family Planning Services
- 140.484 Payment for Family Planning Services
- 140.485 Healthy Kids Program
- 140.486 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 Limitations on Medical Transportation
- 140.492 Payment for Medical Transportation
- 140.493 Payment for Helicopter Transportation
- 140.494 Record Requirements for Medical Transportation Services

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

- 140.495 Psychological Services
- 140.496 Payment for Psychological Services
- 140.497 Hearing Aids
- 140.498 Fingerprint-Based Criminal Background Checks

SUBPART E: GROUP CARE

Section

- 140.500 Long Term Care Services
- 140.502 Cessation of Payment at Federal Direction
- 140.503 Cessation of Payment for Improper Level of Care
- 140.504 Cessation of Payment Because of Termination of Facility
- 140.505 Informal Hearing Process for Denial of Payment for New ICF/MR
- 140.506 Provider Voluntary Withdrawal
- 140.507 Continuation of Provider Agreement
- 140.510 Determination of Need for Group Care
- 140.511 Long Term Care Services Covered By Department Payment
- 140.512 Utilization Control
- 140.513 Notification of Change in Resident Status
- 140.514 Certifications and Recertifications of Care (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
- EMERGENCY
- 140.524 Cessation of Payment Due to Loss of License
- 140.525 Quality Incentive Program (QUIP) Payment Levels
- 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)
- 140.527 Quality Incentive Survey (Repealed)
- 140.528 Payment of Quality Incentive (Repealed)
- 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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
140.538	Special Costs
140.539	Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
140.540	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541	Salaries Paid to Owners or Related Parties
140.542	Cost Reports – Filing Requirements
140.543	Time Standards for Filing Cost Reports
140.544	Access to Cost Reports (Repealed)
140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs Updates
140.552	Nursing and Program Costs
140.553	General Administrative Costs Updates
140.554	Component Inflation Index (Repealed)
140.555	Minimum Wage
140.560	Components of the Base Rate Determination
140.561	Support Costs Components
140.562	Nursing Costs
140.563	Capital Costs
140.565	Kosher Kitchen Reimbursement
140.566	Out-of-State Placement
140.567	Level II Incentive Payments (Repealed)
140.568	Duration of Incentive Payments (Repealed)
140.569	Clients With Exceptional Care Needs
140.570	Capital Rate Component Determination
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)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

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
140.646	Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
140.647	Description of Developmental Training (DT) Services
140.648	Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
140.649	Effective Dates of Reimbursement for Developmental Training (DT) Programs
140.650	Certification of Developmental Training (DT) Programs
140.651	Decertification of Day Programs
140.652	Terms of Assurances and Contracts
140.680	Effective Date Of Payment Rate
140.700	Discharge of Long Term Care Residents
140.830	Appeals of Rate Determinations
140.835	Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND LOCAL GOVERNMENTAL ENTITIES

Section	
140.850	Reimbursement of Administrative Expenditures
140.855	Administrative Claim Review and Reconsideration Procedure
140.860	County Owned or Operated Nursing Facilities
140.865	Sponsor Qualifications (Repealed)
140.870	Sponsor Responsibilities (Repealed)
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)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
140.910	Referrals (Recodified)
140.911	Basic Rehabilitation Aide Training Program (Recodified)
140.912	Interim Nursing Rates (Recodified)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section	General Description
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	General Description
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)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

140.960	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.962	Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.964	Contract Monitoring (Recodified)
140.966	Transfer of Recipients (Recodified)
140.968	Validity of Contracts (Recodified)
140.970	Termination of ICARE Contracts (Recodified)
140.972	Hospital Services Procurement Advisory Board (Recodified)
140.980	Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
140.982	Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)
140.TABLE A	Medicheck Recommended Screening Procedures (Repealed)
140.TABLE B	Geographic Areas
140.TABLE C	Capital Cost Areas
140.TABLE D	Schedule of Dental Procedures
140.TABLE E	Time Limits for Processing of Prior Approval Requests
140.TABLE F	Podiatry Service Schedule
140.TABLE G	Travel Distance Standards
140.TABLE H	Areas of Major Life Activity
140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)
140.TABLE J	HSA Grouping (Repealed)
140.TABLE K	Services Qualifying for 10% Add-On (Repealed)
140.TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
140.TABLE M	Enhanced Rates for Maternal and Child Health Provider Services

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

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,

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140. Table H and 140. Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; 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.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; 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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; 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 PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

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. 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;

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

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.

SUBPART E: GROUP CARE

Section 140.523 Bed Reserves**EMERGENCY**

- a) Nursing Facilities
 - 1) All payable bed reserves must:
 - A) be authorized by a physician;
 - B) have post payment approval from Bureau of Long Term Care staff based on satisfying the requirements of this Section;
 - C) be limited to residents who desire to return to the same facility; and
 - D) be limited to facilities having a 93 percent or higher occupancy level and of that occupancy level, 90 percent or higher shall be Medicaid eligible. The occupancy level shall be calculated including both payable and non-payable (non-payable defined as those residents that have transitioned from the maximum days allowed for payable bed reserve to non-payable bed reserve status) bed reserve~~bedhold~~ days as occupied beds.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

- 2) The Department shall ~~not~~ make payment for resident absences due to hospitalization. In such instances, bed reserve is limited to ten days per hospital stay. In accordance with the Nursing Home Care Act [210 ILCS 45/3-401.1], a recipient or applicant shall be considered a resident in the nursing facility during any hospital stay totaling ten days or less following a hospital admission. The day the resident is transferred to the hospital is the first day of the ~~nonpayable~~ reserve bed period.
 - 3) Payment may be approved for home visits which have been indicated by a physician as therapeutically beneficial. In such instances, bed reserve is limited to seven consecutive days in a billing month or ten non-consecutive days in a billing month. The day after the resident leaves the facility for a therapeutic home visit is the first day of the payable or nonpayable reserve bed period. Home visits may be extended with the approval of the Department.
 - 4) Bureau of Long Term Care staff will approve ongoing therapeutic home visits based on the physician's standing orders for the individual. Standing orders for therapeutic home visits limited to ten days per month are valid for a period not exceeding six months.
 - 5) Payment for approved bed reserves is a daily rate at 75 percent of an individual's current Medicaid per diem.
 - 6) In no facility may the number of vacant beds be less than the number of beds identified for residents having an approved bed reserve. The number of vacant beds in the facility must be equal to or greater than the number of residents allowed bed reserve.
- b) ICF/MR Facilities (including ICF/DD and SNF/Ped licenses)
- 1) All bed reserves must:
 - A) be authorized by the interdisciplinary team (IDT); and
 - B) be limited to residents who desire to return to the same facility.
 - 2) There is no minimum occupancy level ICF/MR facilities must meet for receiving bed reserve payments.
 - 3) In no facility may the number of vacant beds be less than the number of

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

beds identified for residents having an approved bed reserve. The number of vacant beds in the facility must be equal to or greater than the number of residents allowed bed reserve.

- 4) Payment may be approved for hospitalization for a period not to exceed 45 consecutive days. The day the resident is transferred to the hospital is the first day of the reserve bed period. Payment for approved bed reserves for hospitalization is a daily rate at:
 - A) 100 percent of a facility's current Medicaid per diem for the first ten days of an admission to a hospital;
 - B) 75 percent of a facility's current Medicaid per diem for days 11 through 30 of the admission;
 - C) 50 percent of a facility's current Medicaid per diem for days 31 to 45 of the admission.

- 5) Payment may be approved for therapeutic visits which have been indicated by the IDT as therapeutically beneficial. There is no limitation on the bed reserve days for such approved therapeutic visits. The day after the resident leaves the facility is the first day of the bed reserve period. Payment for approved bed reserves for therapeutic visits is a daily rate at:
 - A) 100 percent of a facility's current Medicaid per diem for a period not to exceed ten days per State fiscal year;
 - B) 75 percent of a facility's current Medicaid per diem for a period which exceeds ten days per State fiscal year.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3) Section Numbers: Emergency Action:
146.225 Amendment
146.255 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 93-0841
- 5) Effective Date: August 11, 2004
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date Filed with the Index Department: August 11, 2004
- 8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments are being filed to reinstate payable temporary absence for supportive living facilities (SLFs). Since payable bed reserves are being reinstated pursuant to Public Act 93-0841 for temporary hospitalizations of nursing facility residents, these changes for SLFs are necessary to provide similar reimbursements in long term care environments. Emergency rulemaking is specifically authorized for the implementation of these changes for fiscal year 2005 by Section 5-45 of Public Act 93-0841.
- 10) Complete Description of the Subjects and Issues Involved: Payable temporary absence for supportive living facilities (SLFs), which was discontinued July 1, 2003, is being reinstated. In a related rulemaking at 89 Ill. Adm. Code 140.523, payable bed reserves for nursing facilities are being re-established pursuant to Public Act 93-0841. Temporary absence payments for SLFs will allow equitable reimbursements to be paid to long term care environments. The Department will make payment for up to 30 days per fiscal year during a Medicaid resident's temporary absence from a SLF under circumstances including hospitalizations and vacations.

The Department estimates that the reinstatement of payments for temporary absences in SLFs will result in an additional annual cost of approximately \$250,000.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- 11) Are there any other amendments pending on this Part? No
- 12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any state mandate affecting units of local government.
- 13) Information and questions regarding these amendments shall be directed to:

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

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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

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

PART 146
SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section

- 146.100 General Description
- 146.105 Definitions
- 146.110 Participation Requirements
- 146.115 Records and Data Reporting Requirements
- 146.125 Covered Ambulatory Surgical Treatment Center Services
- 146.130 Reimbursement for Services

SUBPART B: SUPPORTIVE LIVING FACILITIES

- 146.200 General Description
- 146.205 Definitions
- 146.210 Structural Requirements
- 146.215 SLF Participation Requirements
- 146.220 Resident Participation Requirements
- 146.225 Reimbursement for Medicaid Residents

EMERGENCY

- 146.230 Services
- 146.235 Staffing
- 146.240 Resident Contract
- 146.245 Assessment and Service Plan and Quarterly Evaluation
- 146.250 Resident Rights
- 146.255 Discharge

EMERGENCY

- 146.260 Grievance Procedure
- 146.265 Records Requirements
- 146.270 Quality Assurance Plan
- 146.275 Monitoring
- 146.280 Termination or Suspension of SLF Provider Agreement
- 146.285 Voluntary Surrender of Certification
- 146.290 Geographic Groups

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

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

SOURCE: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; new Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. 13146, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19914, effective October 30, 1998; amended at 23 Ill. Reg. 5819, effective April 30, 1999; emergency amendment at 23 Ill. Reg. 8256, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13663, effective November 1, 1999; amended at 24 Ill. Reg. 8353, effective June 1, 2000; emergency amendment at 26 Ill. Reg. 14882, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 2176, effective February 1, 2003; emergency amendment at 27 Ill. Reg. 10854, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18671, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days.

SUBPART B: SUPPORTIVE LIVING FACILITIES

Section 146.225 Reimbursement for Medicaid Residents**EMERGENCY**

SLFs shall accept the reimbursement provided in this Section as payment in full for all services provided to Medicaid residents.

- a) The Department shall establish its portion of the reimbursement for Medicaid residents by calculating 60 percent of the weighted average (weighted by Medicaid patient days) nursing facility rates for the geographic grouping as defined in Section 146.290. Each SLF shall be paid 60 percent of the weighted average nursing facility geographic group rate, based upon the nursing facility geographic group in which it is located. The rates paid to SLFs shall be reviewed annually, and adjusted, if necessary, on October 1 to assure that the rates coincide with 60 percent of weighted average nursing facility geographic group rates. Effective October 1, 2002, SLF rates shall remain at a minimum of the rate in effect as of September 30, 2002.
- b) The payment rate received by the SLF from the Department for services, with the exception of meals, provided in accordance with Section 146.230 shall constitute the full and complete charge for services rendered. Additional payment, other

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

than patient credits authorized by the Department, may not be accepted. Meals are included in the room and board amount paid by the resident.

- c) **Single Occupancy:** Each Medicaid resident of an SLF shall be allotted \$90 per month as a deduction from his or her income as a protected amount for personal use. The SLF may charge each Medicaid resident no more than the current SSI rate for a single individual less \$90 for room and board charges. Any income remaining after deduction of the protected \$90 and room and board charges shall be applied first towards medical expenses not covered under the Department's Medical Assistance Program. Any income remaining after that shall be applied to the charges for SLF services paid by the Department.
- d) **Double Occupancy:** In the event a Medicaid eligible resident chooses to share an apartment, the Medicaid resident of an SLF shall be allotted \$90 per month as a deduction from his or her income as a protected amount for personal use. The SLF may charge each Medicaid resident no more than the resident's share of the current SSI rate for a couple less \$90 for room and board charges. The room and board rate for two Medicaid eligible individuals sharing an apartment cannot exceed the SSI rate for a married couple even if the two individuals sharing an apartment are unrelated. Any income of an individual remaining after deduction of the protected \$90 and room and board charges shall be applied first towards that individual's medical expenses not covered under the Department's Medical Assistance Program. Any income of an individual remaining after that shall be applied to that individual's charges for SLF services paid by the Department. If one, or both, of the individuals sharing an apartment is not Medicaid eligible, the SLF may negotiate its own rate with the non-Medicaid individual or individuals.
- e) The room and board charge for Medicaid residents shall only be increased when the SSI amount is increased. Any room and board charge increase shall not exceed the amount of the SSI increase.
- f) Payment shall be made by the Department for up to 30 days per State fiscal year during a Medicaid resident's temporary absence from the SLF when the absence is due to situations including, but not limited to, hospitalizations or vacations. The resident shall continue to be responsible for room and board charges during any absence. Involuntary discharge criteria relating to temporary absence are found at Section 146.255(b) and (d)(7). Nursing facilities that have a distinct part certified as an SLF shall consider converted beds in the nursing facility's licensed capacity when calculating the 93 percent occupancy level for bed reserve payments pursuant to 89 Ill. Adm. Code 140.523. The Department shall not reimburse an

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

~~SLF for services while a resident is temporarily absent from an SLF. An SLF continues to be responsible for notifying the Department of a resident's temporary absence from the SLF. The resident remains responsible for room and board charges during any temporary absence.~~

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days)

Section 146.255 Discharge**EMERGENCY**

- a) If a resident does not meet the terms for occupancy as stated in the resident contract, the SLF shall not commence involuntary discharge until the SLF has discussed the reasons for involuntary discharge with the resident and his or her designated representative. Documentation of the discussion shall be placed in the resident's record.
- b) The SLF shall provide a resident with a 30-day written notice of proposed involuntary discharge unless such a delay might jeopardize the health, safety, and well-being of the resident or others. A copy of the notice required by this subsection (b) shall be placed in the resident's record and a copy shall be transmitted to the resident and the resident's designated representative. The notice shall be on a form prescribed by the Department and shall contain all of the following:
 - 1) The stated reason for the proposed discharge;
 - 2) The effective date of the proposed discharge;
 - 3) A statement in not less than 14-point type, that reads: "You have a right to appeal the SLF's decision to discharge you. You may file a request for a hearing with the Department within ten days after receiving this notice. If you request a hearing, you will not be discharged during that time unless you are unsafe to yourself or others. If the decision following the hearing is not in your favor, you will not be discharged prior to the tenth day after receipt of the Department's hearing decision unless you are unsafe to yourself or others. A form to appeal the SLF's decision and to request a hearing is attached. If you have any questions, call the Department at the telephone number listed below.";

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- 4) A hearing request form, together with a postage paid, preaddressed envelope to the Department; and
 - 5) The name, address, and telephone number of the person charged with the responsibility of supervising the discharge.
- c) The SLF shall prepare plans to ensure safe and orderly involuntary discharge and protect resident health, safety, welfare and rights.
- d) A resident may be involuntarily discharged only if one or more of the following occurs:
- 1) He or she poses an immediate threat to self or others.
 - 2) He or she needs mental health services to prevent harm to self or others.
 - 3) He or she has breached the conditions of the resident contract.
 - 4) The SLF has had its certification terminated, suspended, not renewed, or has voluntarily surrendered its certification.
 - 5) The SLF cannot meet the resident's needs with available support services.
 - 6) The resident has received proper notice of failure to pay from the SLF. The resident shall have the right to make payment up to the date that the discharge is to be made and then shall have the right to remain in the SLF. This subsection (d)(6) does not apply to Medicaid residents when the failure to pay relates to the Medicaid payment.
 - 7) The resident exceeds the SLF's policy for what constitutes a temporary absence from the SLF. A temporary absence shall not be considered a basis for an involuntary discharge of a Medicaid resident until the Department has stopped payment pursuant to Section 146.225(f). ~~The resident exceeds the SLF's policy for what constitutes a temporary absence from the SLF.~~
- e) The notice required under subsection (b) of this Section shall not apply in any of the following instances:
- 1) When an emergency discharge is mandated by the resident's health care or

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

mental health needs and is in accord with the written orders and medical justification of the attending physician.

- 2) When the discharge is mandated to ensure the physical safety of the resident and other residents as documented in the resident record.
- f) If the resident submits a request for hearing under subsection (b) of this Section, the involuntary discharge shall be stayed pending a hearing or appeal of the decision, unless a condition which would have allowed discharge in less than 30 days as described under subsections (e)(1) and (2) of this Section develops in the interim.
- g) In determining whether an involuntary discharge is justified, the burden of proof in the hearing rests with the entity requesting the discharge.
- h) If the Department determines that an involuntary discharge is justified under subsection (d) of this Section, the resident shall not be required to leave the SLF before the tenth day after receipt of the Department's hearing decision unless a condition which would have allowed discharge as described under subsections (e)(1) and (2) of this Section develops in the interim.
- i) The SLF shall offer relocation assistance to residents involuntarily discharged under this Section, including information on available alternative placements. A resident or his or her designated representative shall be involved in planning the discharge and shall choose among the available alternative placements. Where an emergency makes prior resident involvement impossible, the SLF may arrange for a temporary placement until a final placement can be arranged. The SLF may offer assistance in relocating from a temporary to a final placement.
- j) When a resident discharges on a voluntary basis, he or she shall provide the SLF with 30 days written notice of intent to discharge, except where a delay would jeopardize the health, safety, and well-being of the resident or others.
- k) The Department may discharge any resident from an SLF when any of the following conditions exist:
 - 1) The Department has terminated or suspended the SLF certification.
 - 2) The SLF is closing or surrendering its certification and arrangement for relocation of the resident has not been made at least 30 days prior to

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

closure or surrender.

- 3) The Department determines that an emergency exists which requires immediate discharge of the resident.
- 1) In cases of discharge under subsection (d) or (k) of this Section, the resident is no longer bound by the resident contract.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: 148.283 Emergency Action: Repealed
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 93-0841
- 5) Effective Date of amendment: August 6, 2004
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment repeals the emergency provisions in Section 148.283 that are currently in effect.
- 7) Date Filed with the Index Department: August 6, 2004
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: New Section 148.283, Excellence in Alzheimer's Disease Center Treatment Payments, in an amendment to 89 Ill. Adm. Code 148, was adopted by emergency action on July 1, 2004 (July 16, 2004 at 28 Ill Reg. 10157). However, statutory authority and the necessary appropriation for the new Excellence Program have not yet been established and payments under the fund cannot be made. Because of this, Section 148.283, which is a portion of the earlier emergency amendment (July 1, 2004), is being repealed by this emergency rulemaking. Section 5-54 of Public Act 93-0841 specifically authorizes emergency rulemaking for the implementation of these changes during fiscal year 2005.
- 10) A Complete Description of the Subjects and Issues Involved: The Department adopted new Section 148.283 by emergency action to establish funding for services related to Alzheimer's Disease at Qualified Academic Medical Center Hospitals that are designated by the National Institutes of Aging as an Alzheimer's Disease Core (or Research) Center. However, the enabling legislation has not been signed and approval of an appropriation to fund these services has not occurred. Therefore, Section 148.283 is now being repealed.
- 11) Are there any proposed amendments to this Part pending? Yes

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
148.40	Amendment	July 16, 2004 (28 Ill. Reg. 9926)
148.85	New Section	April 9, 2004 (28 Ill. Reg. 5808)
148.90	New Section	April 9, 2004 (28 Ill. Reg. 5808)
148.95	New Section	April 9, 2004 (28 Ill. Reg. 5808)
148.100	New Section	April 9, 2004 (28 Ill. Reg. 5808)
148.103	New Section	April 9, 2004 (28 Ill. Reg. 5808)
148.110	New Section	April 9, 2004 (28 Ill. Reg. 5808)
148.112	New Section	April 9, 2004 (28 Ill. Reg. 5808)
148.115	Amendment	July 16, 2004 (28 Ill. Reg. 9926)
148.140	Amendment	July 16, 2004 (28 Ill. Reg. 9926)
148.240	Amendment	July 16, 2004 (28 Ill. Reg. 9926)
148.310	Amendment	April 9, 2004 (28 Ill. Reg. 5808)

- 12) Statement of Statewide Policy Objectives: This emergency amendment neither creates nor expands any State mandate affecting units of local government.
- 13) Information and questions regarding this amendment shall be directed to:

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

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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

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

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section

148.500	Definitions
148.510	Reimbursement

SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

Section

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

148.TABLE A	Renal Participation Fee Worksheet
148.TABLE B	Bureau of Labor Statistics Equivalence
148.TABLE C	List of Metropolitan Counties by SMSA Definition

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

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

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870,

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 26 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.283 Excellence in Alzheimer's Disease Center Treatment Payments (Repealed)
EMERGENCY

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

~~Payments for Qualified Academic Medical Center Hospitals that are designated by the National Institutes of Aging as an Alzheimer's Disease Core (or Research) Center shall be made for inpatient admissions occurring on or after July 1, 2004, as follows:~~

- a) ~~Subject to the availability of funds within the Alzheimer's Disease Center Clinical Fund, payments shall be made to qualified hospitals under the following criteria:~~
 - 1) ~~Each institution defined as a Qualified Academic Medical Center Hospital — Pre 1996 Designation shall be eligible for payments from the Alzheimer's Disease Center Clinical Fund.~~
 - A) ~~Hospitals that qualify under the Qualified Academic Medical Center Hospital — Pre 1996 Designation shall be paid a rate of \$55.50 for each Medicaid inpatient day of care.~~
 - B) ~~No qualifying hospital shall receive payments under this Section that exceed \$1,200,000.~~
 - 2) ~~Payments under this Section shall be made at least quarterly.~~
- b) ~~Subject to the availability of funds within the Alzheimer's Disease Center Expanded Clinical Fund, payments shall be made to qualified hospitals under the following criteria:~~
 - 1) ~~Each institution defined as a Qualified Academic Medical Center Hospital — Pre 1996 Designation or as a Qualified Academic Medical Center Hospital — Post 1996 Designation shall be eligible for payments from the Alzheimer's Disease Center Expanded Clinical Fund.~~
 - A) ~~Hospitals that are defined as a Qualifying Academic Medical Center Hospital — Pre 1996 Designation shall be paid \$13.90 for each Medicaid inpatient day of care.~~
 - B) ~~Hospitals that are defined as a Qualifying Academic Medical Center Hospital — Post 1996 Designation and do not meet the Pre 1996 Designation criterion, shall be paid \$10.75 for each Medicaid inpatient day of care.~~

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

- ~~C) Hospitals that qualify under the Pre and Post 1996 Designation shall qualify for payments under this Section according to the payment guidelines for Pre 1996 Designated hospitals.~~
- ~~D) No qualifying hospital shall receive payments under this Section that exceed \$300,000.~~
- 2) ~~Payments under this Section shall be made at least quarterly.~~
- e) Definitions
 - 1) ~~"Academic medical center hospital" means a hospital located in Illinois that is either under common ownership with the college of medicine of a college or university, or a free-standing hospital which the majority of the clinical chiefs of service are department chairmen in the affiliated medical school.~~
 - 2) ~~"Qualified Academic Medical Center Hospital—Pre 1996 Designation" means any academic medical center hospital that was designated by the National Institutes of Health and National Institutes on Aging as an Alzheimer's Disease Core (or Research) Center prior to calendar year 1996.~~
 - 3) ~~"Qualified Academic Medical Center Hospital—Post 1996 Designation" means any academic medical center hospital that was designated by the National Institutes of Health and National Institutes on Aging as an Alzheimer's Disease Core (or Research) Center in or after calendar year 1996 through calendar year 2003.~~
 - 4) ~~"Medicaid inpatient day of care" means each day contained in the Department's paid claims database, including obstetrical days multiplied by two and excluding Medicare crossover days, for dates of service occurring during State fiscal year 1998 and adjudicated through June 30, 1999.~~

(Source: Repealed by emergency rulemaking at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 10, 2004 through August 16, 2004 and has been scheduled for review by the Committee at its September 14, 2004 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
9/22/04	<u>Department of Natural Resources</u> , The Taking of Wild Turkeys – Fall Archery Season (17 Ill. Adm. Code 720)	6/11/04 28 Ill. Reg. 7846	9/14/04
9/23/04	<u>Department of Corrections</u> , Internal Investigations (20 Ill. Adm. Code 112)	5/28/04 28 Ill. Reg. 7408	9/14/04
9/23/04	<u>Illinois Law Enforcement Training Standards Board</u> , Illinois Police Training Act (20 Ill. Adm. Code 1720)	4/23/04 28 Ill. Reg. 6298	9/14/04
9/24/04	<u>Department of Natural Resources</u> , Duck, Goose and Coot Hunting (17 Ill. Adm. Code 590)	6/11/04 28 Ill. Reg. 7795	9/14/04
9/25/04	<u>Department of Public Aid</u> , Medical Assistance Programs (89 Ill. Adm. Code 120)	5/14/04 28 Ill. Reg. 6962	9/14/04
9/25/04	<u>Department of Public Aid</u> , Children's Health Insurance Program (89 Ill. Adm. Code 125)	5/14/04 28 Ill. Reg. 6965	9/14/04
9/29/04	<u>Illinois Commerce Commission</u> , Background Checks and Mercury Compliance (83 Ill. Adm.	4/2/04 28 Ill. Reg.	9/14/04

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

Code 535)

5567

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF FINANCIAL AND PROFESSIONAL
REGULATION – DIVISION OF INSURANCE

Heading of the Part: Infertility Coverage

Code Citation: 50 Ill. Adm. Code 2015

Section Numbers: 2015.20 2015.30 2015.35
 2015.40 2015.43 2015.50
 2015.60

Date Originally Published in the Illinois Register: 9/19/03
 27 Ill. Reg. 14751

At its meeting on August 10, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Division of Insurance of the Department of Financial and Professional Regulation seek specific legislative authorization for its policy of mandating medical coverage for oocyte donors who are not covered by the group medical insurance policy (i.e., 3rd party donors) under the mandated policy provision of Section 356m of the Insurance Code [215 ILCS 5/356m].

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Department Advisory Groups

Code Citation: 89 Ill. Adm. Code 428

Section Numbers: 428.20 428.85

Date Originally Published in the Illinois Register: 12/5/03
27 Ill. Reg. 18290

At its meeting on August 10, 2004, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that, as charged by Section 18.3a(f) of the Adoption Act, when DCFS' Confidential Intermediary Advisory Council develops standards for certification and decertification of confidential intermediaries, oversight, training, relationship between the court and the intermediaries (developing sample orders defining the scope of the intermediaries' access to information), and procedures for decertifying intermediaries in light of violations, the Department codify those standards in rules.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO EXISTING RULE

DEPARTMENT OF LABOR

Heading of the Part: Minimum Wage Law

Code Citation: 56 Ill. Adm. Code 210

Section Numbers: 210.910

At its meeting on August 10, 2004, the Joint Committee on Administrative Rules considered Section 210.910 of the Department's rules titled "Minimum Wage Law" and recommended that the Department of Labor either add standards to 56 Ill. Adm. Code 210.910 governing how it will determine that a petition to intervene has been timely filed or establish a specific time limit within which petitions to intervene may be filed. For the Department to determine that petitions are not timely in the absence of these standards fails to comply with Section 5-20 of the IAPA requiring agencies to provide standards governing the exercise of a discretionary power.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. The agency's response will be placed on the JCAR agenda for further consideration.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the Second Quarter of 2004. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Charitable Games	Medical Appliances
Claims for Credit	Miscellaneous
Computer Software	Motor Vehicles
Drugs	Sale at Retail
Electricity Excise Tax	Sale for Resale
Exempt Organizations	Sale of Service
Farm Machinery & Equipment	Tax Collection
Gas Use Tax	Telecommunications Excise Tax
Gross Receipts	Use Tax
Manufacturing Machinery & Equipment	Vehicle Use Tax

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Marie Keeney
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-2844

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

CHARITABLE GAMES

- ST 04-0079-GIL 04/13/2004 Providing "casino parties" for a client for a fixed dollar amount where the people engaging in the casino games are not charged a fee, are provided with free chips to play with, and bid on prizes using chips won is not subject to the Charitable Games Act or any other gaming Act administered by the Department. The application of the Raffles Act and the gambling provisions of the Criminal Code are not under the jurisdiction of the Department. (This is a GIL.)
- ST 04-0093-GIL 06/22/2004 A game piece must comply with the production standards cited under the Pull Tabs and Jar Games Act. See 86 Ill. Adm. Code 432.130. (This is a GIL.)
- ST 04-0095-GIL 06/24/2004 All of the card games allowed in the Charitable Games Act must be played substantially according to the description of the games found in Hoyle's Modern Encyclopedia of Card games by Walter B. Gibson, published by Doubleday and Company, Inc., April 174, 1st Edition. See 86 Ill. Adm. Code 435.160(a). (This is a GIL.)
- ST 04-0099-GIL 06/24/2004 The Department of Revenue does not currently license raffles. Raffle licenses and the conduct governing raffles may be found in the Raffles Act, 230 ILCS 15/1 et seq. (This is a GIL.)

CLAIMS FOR CREDIT

- ST 04-0075-GIL 04/12/2004 This letter describes claims for credit in a lemon law situation. See 86 Ill. Adm. Code 130.1501. (This is a GIL.)
- ST 04-0083-GIL 04/26/2004 When a motor vehicle is returned for a refund of the purchase price under the New Vehicle Buyer Protection Act, the Department can issue a credit memorandum or a refund for the amount of tax paid attributable to the initial sale of that vehicle, but only to the retailer, not the manufacturer. See 86 Ill. Adm. Code 130.1501. (This is a GIL.)

COMPUTER SOFTWARE

- ST 04-0101-GIL 06/24/2004 The Department has declined to issue a ruling in this letter regarding the use of encrypted keys in computer licensing agreements. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

DRUGS

ST 04-0088-GIL 06/14/2004 A medicine or drug is any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities. See 86 Ill. Adm. Code 130.310(c). (This is a GIL.)

ST 04-0100-GIL 06/24/2004 A medicine or drug is any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities. A written claim on the label that a product is intended to cure or treat disease, illness, injury or pain, or to mitigate the symptoms of such disease, illness, injury or pain constitutes a medicinal claim. See 86 Ill. Adm. Code 130.310(c). (This is a GIL.)

ELECTRICITY EXCISE TAX

ST 04-0078-GIL 04/13/2004 The Retailers' Occupation Tax Act does not impose a tax on electricity because it is not "tangible personal property". Electricity used in relation to cell phone towers is not exempt from the Electricity Excise Tax. (This is a GIL.)

EXEMPT ORGANIZATIONS

ST 04-0092-GIL 06/22/2004 This letter discusses personal property purchased through certain fundraising events for the benefit of certain schools. See 86 Ill. Adm. Code 130.2009. (This is a GIL.)

FARM MACHINERY & EQUIPMENT

ST 04-0071-GIL 04/12/2004 Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in production agriculture or for use in State or Federal agricultural programs. The purchase of a pump for a diesel farm tank would not qualify for the exemption. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

GAS USE TAX

- ST 04-0070-GIL 04/09/2004 This letter provides a reference to the Department's proposed rules regarding the Gas Use Tax Law. See 86 Ill. Adm. Code 471.101 et seq. (This is a GIL.)
- ST 04-0074-GIL 04/12/2004 This letter provides a reference to the Department's proposed rules regarding the Gas Use Tax Law. See 86 Ill. Adm. Code 471.101 et seq. (This is a GIL.)
- ST 04-0086-GIL 05/25/2004 This letter references the exemptions from Gas Use Tax for governmental, charitable, religious, and educational entities. See 35 ILCS 173/5-50. (This is a GIL.)

GROSS RECEIPTS

- ST 04-0087-GIL 05/26/2004 This letter discusses fees included in gross receipts. See 86 Ill. Adm. Code 130.410. (This is a GIL.)
- ST 04-0090-GIL 06/16/2004 This letter concerns cellular phones given to customers when those customers enter into contracts with cellular service providers. See 86 Ill. Adm. 150.305(c). (This is a GIL.)
- ST 04-0096-GIL 06/24/2004 This letter concerns discount coupons. See 86 Ill. Adm. Code 130.2125(b). (This is a GIL.)
- ST 04-0098-GIL 06/24/2004 When a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon for which the seller receives no reimbursement, the amount of the discount is not subject to Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2125. (This is a GIL.)

MANUFACTURING MACHINERY & EQUIPMENT

- ST 04-0077-GIL 04/12/2004 This letter discusses metallurgical coke manufacturing. See 86 Ill. Adm. Code 130.330. (This is a GIL.)
- ST 04-0097-GIL 06/24/2004 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

MEDICAL APPLIANCES

ST 04-0089-GIL 06/15/2004 Medical devices used for diagnostic or treatment purposes do not qualify for the reduced rate of tax for medical appliances. See 86 Ill. Adm. Code 130.310(c). (This is a GIL.)

ST 04-0103-GIL 06/30/2004 Medical devices used for diagnostic or treatment purposes do not qualify for the reduced rate of tax for medical appliances. See 86 Ill. Adm. Code 130.310(c). (This is a GIL.)

MISCELLANEOUS

ST 04-0072-GIL 04/12/2004 This letter provides a reference to the Department's rules regarding vendors of meals. See 86 Ill. Adm. Code 130.2145. (This is a GIL.)

ST 04-0073-GIL 04/12/2004 This letter discusses sales of partial shares of aircraft and leases of aircraft. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 04-0076-GIL 04/12/2004 This letter describes corporate purchasing cards and exempt purchases. See 86 Ill. Adm. Code 130.2080. (This is a GIL.)

ST 04-0085-GIL 05/25/2004 This letter concerns the providing of Internet music services. See 86 Ill. Adm. Code Part 495. (This is a GIL.)

ST 04-0102-GIL 06/28/2004 Non-United States citizen is not exempt from sales tax obligations for purchase of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.2007. (This is a GIL.)

MOTOR VEHICLES

ST 04-0094-GIL 06/23/2004 This letter concerns motor vehicles that have been converted for use by disabled persons. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

SALE AT RETAIL

ST 04-0010-PLR 06/28/2004 This letter discusses whether sales of "Treatment Cards" and patent fees are subject to Illinois sales and use tax. See 35 ILCS 120/1. (This is a PLR.)

SALE FOR RESALE

ST 04-0082-GIL 04/26/2004 Certificates from purchasers on Certificates of Resale in lieu of resale numbers that describe the drop-shipment situation and the fact that purchasers have no contact with Illinois that would require them to be registered and that they choose not to obtain Illinois resale numbers would constitute evidence that this particular sale is a sale for resale despite the fact that no registration number or resale number is provided. See 86 Ill. Adm. Code 130.225. (This is a GIL.)

SALE OF SERVICE

ST 04-0081-GIL 04/19/2004 This letter provides a reference to the Department's rules regarding maintenance agreements. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

TAX COLLECTION

ST 04-0084-GIL 05/19/2004 Manufacturers, importers and wholesalers whose products are sold at retail in Illinois by numerous retailers, may assume the responsibility for accounting and paying to the Department all tax accruing under the Act with respect to such sales, if the retailers who are affected do not make a written objection to the Department to the arrangement See 86 Ill. Adm. Code 130.550. (This is a GIL.)

TELECOMMUNICATIONS EXCISE TAX

ST 04-0080-GIL 04/19/2004 This letter provides a reference to Form RT-12, Request for Determination of Proper Tax Jurisdiction. This form is used by persons who believes that they are improperly being charged a Simplified

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Municipal Telecommunications Tax because those persons service addresses are assigned to the wrong taxing jurisdictions. See 35 ILCS 636/5-1 et seq. (This is a GIL.)

ST 04-0011-PLR 06/28/2004 This letter concerns the resale of telecommunications. See 86 Ill. Adm. Code 495.110. (This is a PLR.)

USE TAX

ST 04-0091-GIL 06/21/2004 If the taxpayer has already paid taxes in another state with respect to the acquisition of tangible personal property, the taxpayer may take credit for those taxes properly due and paid. See, 86 Ill. Adm. Code 150.310(a)(3) (This is a GIL.)

VEHICLE USE TAX

ST 04-0104-GIL 06/30/2004 The Vehicle Use Tax is a privilege tax imposed on the privilege of using, in this State, motor vehicles of the First and Second Divisions, motorcycles, motor driven cycles and motorized pedalcycles. See 86 Ill. Adm. Code 1151.101(a). (This is a GIL.)

DEPARTMENT OF LABOR

NOTICE OF PUBLIC INFORMATION

CONTRACTOR PROHIBITED FROM AN AWARD
OF A CONTRACT OR SUBCONTRACT
FOR PUBLIC WORKS PROJECTS

Pursuant to the findings in In re: Krowlec Construction, IDOL File No. 2001-PW-TM09-1208, the Director of the Department of Labor gives notice that [Krowlec Construction], its member(s), officer(s), manager(s), agent(s), and all persons acting in Krowlec Construction's interest and/or on Krowlec Construction's behalf, and any business entity, including, but not limited to, any firm, corporation, partnership or association in which Krowlec Construction, its member(s), officer(s), manager(s), agent(s), and all other persons acting in Krowlec Construction's interest and/or on Krowlec Construction's behalf have an interest, pecuniary or otherwise, is(are) prohibited from bidding, accepting or working on any contract or subcontract for a public works project covered by the Prevailing Wage Act, 820 ILCS 130/0.01-12 (2001), commencing July 1, 2004 and continuing through July 1, 2006.

Copies of the Prevailing Wage Act are available on the internet at <http://www.legis.state.il.us/ilcs/ch820/ch820act130.htm>, and at the:

Illinois Department of Labor
Conciliation and Mediation Division
One West Old State Capital Plaza, Room 300
Springfield, Illinois 62701-1217

PROCLAMATIONS

2004-232**Gregory Alan Maddux Day**

WHEREAS, Gregory Alan Maddux was born on April 14, 1966 in San Angelo, Texas. He would later move to Las Vegas, Nevada, where he attended Valley High School and was All-State in baseball during his junior and senior seasons; and

WHEREAS, on September 2, 1986, Greg made his major league debut with the Chicago Cubs as a relief pitcher. Five days later on September 7, he made his first major league start, and tallied his first major league win. He would go on to make 593 more starts and win 299 more games to date; and

WHEREAS, in 1992, Greg won the first of his of four National League Cy Young Awards, honoring him as the best pitcher in the league for that season; and

WHEREAS, after the 1992 baseball season, Greg would leave the Cubs and sign as a free agent with the Atlanta Braves. During his tenure with the Braves, he built on the tremendous talent that he displayed with the Cubs to become one of the most skillful, accomplished and consistent pitchers of his generation; and

WHEREAS, Greg again became a free agent after the 2003 season, and to the delight of Cub fans nationwide, decided to re-sign with the Chicago team that gave him his start in professional baseball; and

WHEREAS, Greg has achieved many milestones throughout his 19-year career, including: becoming the first pitcher in major league history to win 15 games or more in 16 consecutive seasons, winning four consecutive Cy Young Awards from 1992-1995, and winning 13 consecutive Gold Glove Awards from 1990-2002, establishing him as the best-fielding National League pitcher in each of those seasons; and

WHEREAS, Greg's most recent milestone came on Saturday, August 7, 2004 when he became only the 22nd pitcher in major league history to win 300 games. This accomplishment was shared by his teammates, his fans, and his wife, Kathy and their two children; and

WHEREAS, Greg's humble and team-oriented attitude cause him to understate the greatness of such a terrific feat, therefore it is all the more important that we, as a state, take the time to recognize this, and the many other accomplishments in the career of a great Chicago Cub, and a future Hall of Famer:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim Sunday, August 15, 2004 as GREGORY ALAN MADDUX DAY in Illinois, and encourage all citizens to join in celebration of Greg Maddux's 300th career major league win.

Issued by the Governor August 13, 2004.

Filed by the Secretary of State August 13, 2004.

2004-233**National Temporary Help Week**

WHEREAS, temporary workers keep businesses moving in a positive direction, helping to provide strength and flexibility in the workplace; and

WHEREAS, in 2003, the staffing industry generated \$58.2 billion helping to strengthen the nation's economy; and

PROCLAMATIONS

WHEREAS, statistics show that 95 percent of businesses use temporary employment to increase their amount of daily output; and

WHEREAS, temporary help creates 2.3 million jobs on an average day, employing those who may not otherwise be gainfully employed. The industry has also helped to create over one million jobs since 1991; and

WHEREAS, the staffing industry allows businesses to acclimate themselves to changing economic climates swiftly and without fail:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim September 27 – October 1, 2004 as **NATIONAL TEMPORARY HELP WEEK** in Illinois, and applaud temporary help workers for the instrumental role they play in helping to keep the economy strong.

Issued by the Governor August 9, 2004.

Filed by the Secretary of State August 13, 2004.

2004-234**GFWC Illinois Junior Women's Club Week**

WHEREAS, the General Federation of Women's Clubs (GFWC) is an organization that supports a variety of community issues such as the arts, education, and civic involvement, while at the same time making an effort to better the lives of those in their community; and

WHEREAS, the GFWC Illinois Junior Organization has served the state for over 59 years and over time has come to include 2100 members which make up 78 clubs in the state of Illinois. In 2003, members spent 276,040 hours volunteering on 5,034 projects throughout the state and donating over \$1.9 million dollars; and

WHEREAS, the GFWC Junior Organization has a continuing effect on their communities by helping with programs such as the Children's Research Foundation, Advocates for Children, and Literacy and Safety for Older Americans; and

WHEREAS, a special initiative is being started to help the families of deployed soldiers and continue upkeep within Veterans Affairs facilities through donations and volunteers:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim the week of October 10-16, 2004 as **GFWC ILLINOIS JUNIOR WOMEN'S CLUB WEEK** in Illinois, and thank them for all of the good work they do through their programs for the women of Illinois.

Issued by the Governor August 10, 2004.

Filed by the Secretary of State August 13, 2004.

2004-235**Principals' Week and Principals Day**

WHEREAS, principals are the most influential individuals in the school and share a vision with the students, staff, and parents that encourages each and every child to reach their full potential; and

WHEREAS, the Illinois Principals Association (IPA), which represents 4,000 principals

PROCLAMATIONS

statewide, promotes and supports the improvement of education through effective educational leadership; and

WHEREAS, the IPA serves as an advocate for children and their educational standards. They believe that learning is a lifelong process and that the education of our children is the highest priority in the state of Illinois and throughout the nation; and

WHEREAS, the IPA believes that Principals are extremely important to school-life and should be appreciated for the incredibly hard work they do everyday:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim the week of October 17-23, 2004 as PRINCIPALS' WEEK and October 22, 2004 as PRINCIPALS DAY in Illinois, and encourage all citizens to value the work that principals do to keep schools running and children learning everywhere.

Issued by the Governor August 10, 2004.

Filed by the Secretary of State August 13, 2004.

2004-236**Young Adolescents Month**

WHEREAS, the Month of the Adolescent is supported by the Association of Illinois Middle-Level Schools and is a part of a nationwide effort to show the many challenges, faced by youth between the ages of 10 and 15; and

WHEREAS, the period of early adolescence is when young people make major decisions about their values, standards, attitudes, and personal beliefs that will carry them through the rest of their life. Getting parents and the community to take part in helping to formulate healthy attitudes will aid in creating healthy, happy adolescents that will go on to be healthy, happy adults; and

WHEREAS, the focus of the Month of the Adolescent will be on the developmental needs and characteristics of young adolescents and how these impact parenting practices, health conditions, and educational programs for this age group.

WHEREAS, there will be several events for kids and adults to help them learn more about each other. On October 19, there will be a shadow program where students will be able to follow their teachers and principals, showing them how it is they operate and manage the school; and

WHEREAS, collaboration between parents and the community will produce programs that can impact a young adolescent and nurture them in a way that will produce outstanding young men and women:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim October 2004 YOUNG ADOLESCENTS MONTH, and encourage all citizens to take an active interest in shaping today's youth.

Issued by the Governor August 10, 2004.

Filed by the Secretary of State August 13, 2004

2004-237**Operation Snowball Month**

PROCLAMATIONS

WHEREAS, Operation Snowball is a program that encourages kids to stay substance-free by providing them with interactive group sessions; and

WHEREAS, over 50,000 kids participate in Operation Snowball, which is partnered with the Illinois Alcoholism and Drug Dependence Association. Operation Snowball currently has 150 chapters and is continually expanding; and

WHEREAS, the program focuses on prevention messages that aim primarily at the high school age because many students understand the idea behind prevention. Group learning sessions present facts about drug and alcohol use and help them to develop their own ideas about these substances before they are faced with a situation in the world at large; and

WHEREAS, Operation Snowball is continually expanding to include people of all ages

into their program by creating Snowflakes for junior high students and Snowflurries for

elementary students. These programs teach kids the importance of living a substance-free

lifestyle at an early age. There is also Segues for college students and Blizzards for families,

helping to serve as role models for the younger children; and

WHEREAS, Operation Snowball gives young adults the opportunity to enhance their leadership skills as well as maintain their substance-free lifestyle by mentoring younger children and motivating them to live by the same standards:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim October 2004 as OPERATION SNOWBALL MONTH and encourage all youth and young adults to maintain a healthy, substance-free lifestyle.

Issued by the Governor August 10, 2004.

Filed by the Secretary of State August 13, 2004.

2004-238**School's Open Safety Week**

WHEREAS, students in Illinois will soon be returning for a new school year; and

WHEREAS, motorists should be aware of children walking to and from school and be especially cautious around school zones. These same motorists should be careful to observe the posted speed limit, as well as take instruction from any Student Safety Patrol members guiding their fellow students across busy intersections; and

WHEREAS, the American Automobile Association produces a program of Student Safety Patrol Club with over 20,000 members in 997 schools in Illinois and Northwest Indiana;
and

PROCLAMATIONS

WHEREAS, it is important for motorists to be aware of posted rules and regulations near schools and in the surrounding areas. These rules are meant to protect children and are vital to their safety; and

WHEREAS, communities throughout the state will be promoting safe driving techniques and driver awareness in an effort to keep communities secure:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim August 30 – September 3, 2004 as SCHOOL'S OPEN SAFETY WEEK in Illinois and call on all citizens to drive safely, protecting the future of our children.

Issued by the Governor August 10, 2004.

Filed by the Secretary of State August 13, 2004.

2004-239**Lions Candy Day**

WHEREAS, the Lions Club was founded in 1917 by Melvin Jones. His goal was to create an organization of businesses who shared a common goal of bettering the community; and

WHEREAS, Lions Club International has grown to incorporate 1.4 million members who participate in 46,000 clubs in 193 countries across the globe; and

WHEREAS, the Lions Club of Illinois has raised an unprecedented amount of money for those who are visually and hearing impaired over the years through events such as Candy Day; and

WHEREAS, Candy Day allows the Illinois citizens to contribute to an organization that will in turn, give back to the public. The candy they receive is a token of appreciation from the Lions Club for their donation; and

WHEREAS, all proceeds made from Candy Day will go to the programs the Lions Club of Illinois promotes to continue to help the visually and hearing impaired:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim October 8, 2004 as LIONS CANDY DAY in Illinois, and applaud the Lions Club for so nobly serving the public for close to 90 years.

Issued by the Governor August 10, 2004.

Filed by the Secretary of State August 13, 2004.

2004-240**National Fibrodysplasia Ossificans Progressiva Awareness Week**

WHEREAS, Fibrodysplasia Ossificans Progressiva (F.O.P.) is a rare genetic disorder in which bone forms within muscles, sometimes forming a bridge of extra bone across a joint, restricting movement of the body. F.O.P. literally means, "soft connective tissues that progressively turn to bone;" and

WHEREAS, persons with F.O.P. generally develop the disease in the early stages of life. New bones form anywhere in the body, but tend to specifically develop in the neck through to the chest area, or from the knees to the ankles more than any other area; and

WHEREAS, during bone formation is when the most pain occurs. Although there is

PROCLAMATIONS

medication to subdue the pain, there is no cure for the disease; and

WHEREAS, while it is still unclear why the disease functions as it does, it has been determined that it is genetic. An unaffected parent can pass it along to their child without knowing. A person living with F.O.P. has a 50% chance of passing the gene along to their children; and

WHEREAS, since F.O.P. is such a rare disease, there is only one medical center that has

a lab dedicated to understanding this disease and striving for a cure. Although scientists have

been able to narrow the location of the gene, they still have not found its exact location.

Until

they find the gene, they cannot understand why or how it develops; and

WHEREAS, funding for F.O.P. has been limited because many people do not know about the disease. Letting the public know the disease exists and what it does to the human form is the main goal for advocates of this disease. Funding for finding a cure is limited because the disease is rare and still so unknown:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim October 12-20, 2004 as NATIONAL FIBRODYSPLASIA OSSIFICANS PROGRESSIVA AWARENESS WEEK and encourage all citizens to learn more about this rare and debilitating illness.

Issued by the Governor August 10, 2004.

Filed by the Secretary of State. August 13, 2004.

2004-241**National Alcohol and Drug Addiction Recovery Month**

WHEREAS, substance addiction is a chronic illness linked to brain chemistry that can often be treated medically; and

WHEREAS, substance abuse, and its co-existing mental and physical disorders, are major public health problems that affect millions of Americans of every age, race and ethnic background, in all communities; and

WHEREAS, alcohol and drug use disorders have enormous medical, societal and economic costs, with a significant negative impact on families, often resulting in increased conflict, emotional and physical abuse, stress, and financial strife; and

WHEREAS, in 2002, an estimated 22 million Americans met the criteria for substance dependence or abuse. That year, only 10.3 percent of Americans 12 and older who needed treatment for an alcohol or drug use disorder actually received treatment; and

PROCLAMATIONS

WHEREAS, the primary reason that most of those afflicted did not receive treatment is that they incorrectly believed that treatment was not necessary; and

WHEREAS, those who do realize that they need treatment often face various barriers to recovery. These barriers include the cost of treatment, stigma associated with substance abuse problems, inadequate facilities, and simply a lack of information about treatment options; and

WHEREAS, since 1967, the Illinois Alcoholism and Drug Dependence Association (IADDA) has worked to educate the public about substance abuse and addiction, while also representing more than 100 treatment and prevention agencies across Illinois; and

WHEREAS, the theme of this year's Recovery Month, "Join the Voices for Recovery... NOW!" aims to celebrate the lives of those who have successfully recovered from substance addictions, proving that proper treatment can lead to normal, healthy, and productive lives:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim September 2004 as NATIONAL ALCOHOL AND DRUG ADDICTION RECOVERY MONTH in Illinois, and call on all citizens to celebrate the lives of those who have successfully recovered, while encouraging those struggling with substance abuse to seek treatment.

Issued by the Governor August 12, 2004.

Filed by the Secretary of State. August 13, 2004

2004-242
SHIP Week

WHEREAS, according to the U.S. Census Bureau, over 1.5 million Illinoisans are 65 years of age or older, and over 750,000 Illinoisans under 65 have a disability. These are the two primary groups eligible for Medicare, and they are growing in numbers every year; and

WHEREAS, elderly and disabled people who lack a social support network can be unaware of their Medicare benefits, and also may be unable to access and complete the proper application procedure; and

WHEREAS, the Senior Health Insurance Program (SHIP) was initiated in 1988 by the Illinois Division of Insurance in order to educate the eligible citizens of Illinois about the many benefits of Medicare, using various community organizations, senior citizen centers, and the media in order to reach them; and

WHEREAS, lowering seniors' prescription drugs costs continues to be a major focus of my administration, and through efforts such as the creation of a Seniors Prescription Drug Discount Card, which can save seniors and disabled persons as much as 30% on their medical costs, we are working diligently in that pursuit. The SHIP program has been a valuable partner in this effort, producing a Prescription Drug Information Guide to help Medicare participants find the most affordable options for obtaining their prescription drugs; and

WHEREAS, since its inception, more than 800 SHIP volunteers have contributed nearly 192,000 hours to assist over 163,000 clients, saving Illinois' citizens more than \$13.3 million in customer service costs; and

WHEREAS, SHIP volunteers are truly admirable citizens, contributing their time and talents in order to improve the lives of Illinois' Medicare beneficiaries:

PROCLAMATIONS

THEREFORE I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim September 6-10, 2004 as SHIP WEEK in Illinois, and encourage all citizens to recognize the positive work that SHIP volunteers do for our elderly and disabled citizens.

Issued by the Governor August 12, 2004.

Filed by the Secretary of State. August 13, 2004

ILLINOIS ADMINISTRATIVE CODE

Issue Index - With Effective Dates

Rules acted upon in Volume 28, Issue 35 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

89 - 140	.....	12066
89 - 146	.....	12069

ADOPTED RULES

80 - 2151	08/12/2004.....	12071
83 - 731	09/01/2004.....	12083
11 - 1313	08/22/2004.....	12119
92 - 1001	09/01/2004.....	12123

EMERGENCY RULES

89 - 140	08/11/2004.....	12198
89 - 146	08/11/2004.....	12218
89 - 148	08/06/2004.....	12227

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STATEMENTS OF RECOMMENDATION

50 - 2015	.....	12238
89 - 428	.....	12239
56 - 210	.....	12240

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STATEMENTS OF OBJECTION

89 - 148	12241
----------	-------	-------

EXECUTIVE ORDERS AND PROCLAMATIONS

04 - 233	08/09/2004.....	12251
04 - 232	08/13/2004.....	12251
04 - 235	08/10/2004.....	12252
04 - 234	08/10/2004.....	12252
04 - 236	08/10/2004.....	12253
04 - 237	08/10/2004.....	12253
04 - 238	08/10/2004.....	12254
04 - 239	08/10/2004.....	12255
04 - 240	08/10/2004.....	12255
04 - 241	08/12/2004.....	12256
04 - 242	08/12/2004.....	12257

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