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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2013

Issue#	Rules Due Date	Date of Issue
1	December 26, 2012	January 4, 2013
2	December 31, 2012	January 11, 2013
3	January 7, 2013	January 18, 2013
4	January 14, 2013	January 25, 2013
5	January 22, 2013	February 1, 2013
6	January 28, 2013	February 8, 2013
7	February 4, 2013	February 15, 2013
8	February 11, 2013	February 22, 2013
9	February 19, 2013	March 1, 2013
10	February 25, 2013	March 8, 2013
11	March 4, 2013	March 15, 2013
12	March 11, 2013	March 22, 2013
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14	March 25, 2013	April 5, 2013
15	April 1, 2013	April 12, 2013
16	April 8, 2013	April 19, 2013
17	April 15, 2013	April 26, 2013
18	April 22, 2013	May 3, 2013
19	April 29, 2013	May 10, 2013
20	May 6, 2013	May 17, 2013

21	May 13, 2013	May 24, 2013
22	May 20, 2013	May 31, 2013
23	May 28, 2013	June 7, 2013
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27	June 24, 2013	July 5, 2013
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44	October 21, 2013	November 1, 2013
45	October 28, 2013	November 8, 2013
46	November 4, 2013	November 15, 2013
47	November 12, 2013	November 22, 2013
48	November 18, 2013	December 2, 2013
49	November 25, 2013	December 6, 2013
50	December 2, 2013	December 13, 2013
51	December 9, 2013	December 20, 2013
52	December 16, 2013	December 27, 2013

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Chief Procurement Officer for General Services Standard Procurement

2) Code Citation: 44 Ill. Adm. Code 1

3) Section Number: 1.2020 Proposed Action: Amendment

4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500]

5) A Complete Description of the Subjects and Issues Involved: The Chief Procurement Officer for General Services is raising the requirements for competitive bidding for supplies and services to $50,000 and above and for construction to $70,000 and above. Currently, competitive selection is required on all supplies and services totaling $35,000 and above and for construction $42,000 and above.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not affect, create or expand a State mandate under the State Mandates Act.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Chief Procurement Office for General Services 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]. Written comments may be submitted within 45 days after the date of publication in the *Illinois Register* to:

Margaret L. van Dijk
Senior Policy Advisor
Chief Procurement Office for General Services

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENT

712 Stratton Office Building
Springfield, IL 62706

217-558-2228
Margaret.vanDijk@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed amendments will have an impact on small businesses, as defined in Sections 1-75 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75]. These entities may submit comments in writing to the Chief Procurement Office for General Services at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-20]. These entities shall indicate their status as a small business as part of any written comments they submit. These amendments will not affect any small municipalities or not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: Businesses interested in contracting with the State may be required to meet all of the procurement ethics and disclosure requirements the Illinois Procurement Code [30 ILCS 500] including financial disclosure requirements, conflict of interest requirements, and may be required to register with the State Board of Elections and be authorized to do business in the State of Illinois.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This amendment was not included in either of the two most recent Agendas because the need for the rulemaking was not anticipated at the time the Agendas were published.

The full text of the Proposed Amendments are identical to the text of the Emergency Amendment that appears in this issue of the *Illinois Register* on page 1319:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: General Provisions

2) Code Citation: 89 Ill. Adm. Code 101

3)

Section Numbers:	Proposed Action:
101.10	Amendment
101.20	Amendment
101.30	Amendment
101.40	Amendment
101.50	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 97-689

5) Complete Description of the Subjects and Issues Involved: This Part is being amended to comply with the General Assistance eligibility mandated by PA 97-689, the SMART Act. Effective 7/1/12, State support for medical benefits under General Assistance is eliminated entirely. The rulemaking also clarifies fraud and abuse reporting and makes other clarifying changes in agency and program names.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes, at 36 Ill. Reg. 10176, effective July 1, 2012 through June 30, 2013.

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

12) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

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

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2013

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES~~PUBLIC AID~~
SUBCHAPTER a: GENERAL PROVISIONS

PART 101
GENERAL ADMINISTRATIVE PROVISIONS

Section
101.1 Incorporation by Reference
101.10 Applicability
101.20 Definitions
101.30 Assistance Programs
101.40 Assistance Program Restrictions
101.50 Reporting Suspected Fraud or Abuse

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

SOURCE: Filed and effective December 30, 1977; emergency amendment at 2 Ill. Reg. 5, p. 194, effective January 23, 1978, for a maximum of 150 days; emergency amendment at 2 Ill. Reg. 19, p. 108, effective May 1, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 25, p. 50, effective June 24, 1978; amended at 2 Ill. Reg. 33, p. 27, effective August 17, 1978; amended at 3 Ill. Reg. 43, p. 196, effective October 15, 1979; emergency amendment at 4 Ill. Reg. 1, p. 78, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 23, p. 80, effective May 23, 1980; amended at 5 Ill. Reg. 1369, effective January 29, 1981; peremptory amendments at 5 Ill. Reg. 10072, 10076, and 10079, effective October 1, 1981; amended at 5 Ill. Reg. 12728, effective November 1, 1981; codified at 7 Ill. Reg. 5195; amended at 13 Ill. Reg. 3897, effective March 17, 1989; emergency amendment at 19 Ill. Reg. 10220, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15676, effective November 3, 1995; emergency amendment at 21 Ill. Reg. 8638, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13619, effective October 1, 1997; amended at 22 Ill. Reg. 6991, effective April 1, 1998; amended at 26 Ill. Reg. 2039, effective February 1, 2002; emergency amendment at 36 Ill. Reg. 10176, effective July 1, 2012 through June 30, 2013; amended at 37 Ill. Reg. _____, effective _____.

Section 101.10 Applicability

a) This Part applies~~These Rules apply~~ to activities of the ~~Illinois Department of Public Aid and~~ local governmental units in administering those programs and

activities authorized by ~~Sections 1-1 et seq. of~~ the Illinois Public Aid Code [305 ILCS 5]~~(Ill. Rev. Stat. 1981, ch. 23, pars. 1-1 et seq.)~~ and any other applicable statutes.

b) The 1977~~This~~ codification of rules incoporated~~Rules incorporates~~ into this Part~~one set~~ the Rules of the Department, and replaced~~replaces~~ the Administrative and Categorical Rules and Regulations and the General Assistance and Local Aid to the Medically Indigent Rules and Regulations previously on file with the Secretary of State. These Rules in no way affect the Rules for Medical Vendor Administrative Proceedings filed and effective on an emergency basis December 27, 1977.

c) Should any ~~Rule, subdivision, clause, phrase, or~~ provision of this Part~~these Rules~~ be unconstitutional or invalid for any reason whatsoever, these~~such~~ holdings shall not affect the validity of the remaining portions of this Part~~these Rules~~.

d) All Rules and Regulations of the Illinois Department of Public Aid previously filed with the Secretary of State, with the exception of the Rules for Medical Vendor Administrative Proceedings filed and effective on an emergency basis December 27, 1977, were~~are hereby~~ replaced by adoption of this Part~~this codification~~.

e) This Part~~These Rules~~ shall be operative only to the extent that it does~~they do~~ not conflict with any Federal law or regulation governing Federal grants to this State for public assistance programs.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 101.20 Definitions

"AABD~~.~~" or "Aid to the Aged, Blind or Disabled" – Financial~~financial~~ assistance and medical assistance available to individuals who have been determined to be aged, blind or disabled as defined by the Social Security Administration.

"Adequate Consideration~~.~~" – The receipt of goods, monies or services at least in the amount of the fair market value of the property sold.

"Adult Cases~~.~~" – A case in which no child is included in the assistance unit.

"Adverse Action~~.~~" – Any action that~~which~~ reduces SNAP~~food stamp~~ benefits or terminates participation in SNAP~~the food stamp program~~ within a certification period.

"AFDC~~.~~" or "Aid to Families with Dependent Children" – Financial~~financial~~ assistance and medical assistance available to families with one or more dependent children or in behalf of dependent children placed in foster care by the Department of Children and Family Services (DCFS).

"AFDC-F"~~:~~ – Medical assistance~~Assistance~~ for an eligible child under DCFS guardianship.

"Agency Error~~.~~" – An action or inaction of DHS or HFS~~the Department~~ resulting in assistance benefits being furnished to or in behalf of a client for which the client is not eligible.

"Applicant~~.~~" – An individual requesting assistance by completion of a signed, written application form or a person in whose behalf a signed written application form is completed requesting assistance.

"Application~~.~~" – A request for assistance by means of a completed, signed designated form. For SNAP~~food stamp~~ purposes, only a name, address and signature are needed on the form.

"Assistance Unit~~.~~" – The individual or individuals living together for whom DHS or HFS~~the Department~~ determines eligibility and, if eligible, provides financial and/or medical assistance as one unit.

"Benefit Allotment" – The total dollar value of the SNAP benefits that a household is authorized to receive.

"Caretaker Relative~~.~~" – A relative, as specified in this definition~~below~~, with whom a child must live to be eligible for TANF and who is providing care, supervision and a home for the child.

Blood or adoptive relatives within the fifth degree of kinship:

Father – Mother

Brother – Sister

Grandmother – Grandfather (including up to great-great-great)

Uncle – Aunt (including up to great-great)

Nephew – Niece (including up to great-great)

First Cousin

First Cousin once removed (child of first cousin)

Second Cousin (child of great-aunt/uncle)

Step-Relatives:

Step-Father – Step-Mother

Step-Brother – Step-Sister

Person who is or has been married to one of the listed blood, adopted or step-relatives.~~one of the above relatives~~

"Categorical Assistance Programs~~.~~" – TANF, AABD and related MANG programs.

"Categorically Eligible~~.~~" – The meeting of all eligibility requirements for a categorical assistance program other than financial needs.

"Certification for SNAP Benefits~~Food Stamps.~~" – Authorization of eligibility of a household for SNAP~~the food stamp program~~.

"Certification Period~~.~~" – The period of time for which a household is authorized to participate in SNAP~~the food stamp program~~.

"Certifying Office~~.~~" – The DHS~~IDPA~~ local office ~~or General Assistance unit office~~ responsible for certification of SNAP~~food stamp program~~ participants.

"Client~~.~~" – The adult in the family or unit applying for assistance or receiving

assistance on behalf of the family.

"Client Error." – A client's mistake, misunderstanding, misrepresentation or concealment of information or failure to report information promptly that which results in financial and/or medical assistance being paid to or in behalf of a recipient for which the recipient is not eligible.

"Correspondent." – A specific individual who has been legally designated to handle the affairs of another individual, that is, parents, court appointed guardian or conservator.

"Coupon Allotment." The total dollar value of the food stamp coupons that a household is authorized to receive.

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

"Department." or "HFS" – The Illinois Department of Public AidHealthcare and Family Services.

"Dependent Child." – A child age 18 or under who is living with a relative. If age 18, the child must be a full-time high school (or equivalent) student.

"DHS." – Illinois Department of Human Services.

"DHS-MH/DD" – The Divisions of Mental Health and Developmental Disabilities of the Department of Human Services.

"DHS-DRS" – The Division of Rehabilitation Services of the Department of Human Services.

"Disbursing Order." – An invoice voucher form given to a client authorizing a vendor to provide specified goods and/or services.

"Disposition of an Application." – The determination of eligibility or ineligibility.

"Diverted Income." – Earned or unearned income of a parent used to meet the needs of ineligible person or persons, including the parent, his or hertheir dependent child or children or his or hertheir spouse.

~~"DMHDD." Formerly Illinois Department of Mental Health and Developmental Disabilities. Now part of DHS.~~

"DOC~~.~~" – Illinois Department of Corrections.

"DOL~~.~~" – Illinois Department of Labor.

~~"DORS." Formerly Illinois Department of Rehabilitation Services. Now part of DHS.~~

"Earmarked Income~~.~~" – Income restricted for the use of an individual by court order or by legal stipulation of a contributor. Only income of a child may be considered earmarked for HFS or DHS~~Departmental~~ purposes. The income of an eligible child who has siblings in the home receiving TANF financial assistance cannot be earmarked.

"Earned Income~~.~~" – Remuneration derived through the receipt of wages or salary for services performed as an employee or profits from activity in which the individual is self-employed.

"Effective Date~~.~~" – The date for which case action is authorized.

"Enrolled MANG Participant~~.~~" – Person or unit meeting the nonfinancial factors of eligibility.

"Established Twelve-Month Period~~.~~" – The period of 12 calendar months over which income is compared to the applicable MANG standard.

"Expedited Issuance~~.~~" – Authorization of SNAP~~food stamp~~ benefits after the household has been determined to be destitute or to have zero net income.

"Expedited Service~~.~~" – An immediate processing of a SNAP~~food stamp~~ application and determination of eligibility for expedited issuance.

"Family and Children Assistance Case~~.~~" – A General Assistance case in which case eligibility is based on the presence of an eligible child.

"FNS~~FCS.~~" – The Food and Nutrition~~Consumer~~ Service of the United States Department of Agriculture.

"Final Administrative Decision." – A decision made by HFS or DHS the Department as a result of an appeal. It either upholds or reverses the appealed action or determines a lack of jurisdiction.

"Financial Assistance." – Public assistance Assistance paid in the form of a cash benefit to a recipient for income maintenance needs. Medical assistance and SNAP food stamp benefits are not considered financial assistance.

"Financial Factors of Eligibility." – Income, assets and Department levels of assistance.

"Financially Eligible." – The meeting of all financial factors of eligibility.

"Fiscal Month." – Begins on a given day in one calendar month and ends on the day prior to the same given day in the next calendar month.

"Food Coupons." Same as food stamps.

"Food Stamp Benefits." The cash value of benefits which a food stamp unit receives from the program.

"Food Stamp Employment and Training." Employment and training program for food stamp recipients.

"Food Stamp Household or Unit." For purposes of the food stamp program, a household or unit is defined as any of the following:

"Full-Time Employment." – Employment of 30 hours per week or more.

"GA." or "General Assistance" – Financial financial and medical assistance provided by a local governmental unit available to eligible needy families or individuals who are ineligible to receive assistance through a categorical assistance program.

"GA Community Work and Training Program." A program, applicable to GA outside the City of Chicago only, designed to increase employability of General Assistance recipients through constructive work experience, adult education, vocational training and gainful employment.

"Grant." – The total amount of a monthly financial assistance payment.

"Grant Cases." – Public assistance cases authorized for financial assistance payments to the recipient.

"Head of Household." – The person in whose name application is made for participation in SNAPthe food stamp program. This person is normally the individual who is the household's primary source of income.

"Health Maintenance Organization" or ("HMO)." – Licensed by the Illinois Department of Insurance as a non-profit incorporated agency whose purpose is to provide preventive health care and medical services.

"Healthy Kids." – Early and periodic screening, diagnosis and treatment services provided to children from birth through 20 years of age.

"Hearing." – The actual presentation and consideration of the issue under appeal before a hearing officer of the Department.

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

"HIB." – Hospital Insurance Benefits provided by Title XVIII of the Social Security Act (Medicare) (42 USCU.S.C., 1395 et seq.).

"Initial Prorated Entitlement" or ("IPE)." – Financial assistanceAssistance to cover the period from the initial point of eligibility (application for assistance or initial needs of a person being added to the assistance unit) through two days after the mailing date of the first regular monthly assistance warrant.

"In-Kind Income." – Income received by or paid in behalf of an individual in a form other than money.

"Intermediate Care Facility" or ("ICF)." – Provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. TheSuch facilities are for residents who have long term illnesses or disabilities thatwhich may have reached a relatively stable plateau.

"Intermediate Care Facility for the Developmentally Disabled~~Mentally Retarded~~" or ~~(~~"ICF/DD~~MR).~~" – Provides primarily for ambulatory adults with developmental disabilities and addresses itself to the needs of intellectually disabled persons~~mentally retarded~~ and/or those with related conditions. These~~Such~~ facilities are for residents who have physical, intellectual, social and emotional needs.

~~"JTPA." Job Training Partnership Act.~~

"Local Governmental Unit~~.~~" – Every county, city, village, incorporated town or township charged with the duty of providing public aid under General Assistance and County Veterans Assistance Commissions providing assistance to indigent war veterans and their families.

"Local Office~~.~~" – DHS~~Department of Public Aid~~ offices that~~which~~ serve clients living within a designated geographical area.

"Lump-Sum Payment~~.~~" – An extraordinary or non-recurring income payment received by a client.

"MAG~~.~~" or "Medical Assistance Grant~~ cases~~" – Medical~~medical~~ assistance paid on behalf of a recipient of financial assistance.

"MANG~~.~~" – Medical Assistance No Grant-~~cases~~" – Medical~~medical~~ assistance paid on behalf of a recipient of categorical assistance who is not receiving financial assistance.

"MANG(AABD)~~.~~" – Medical assistance available to individuals who have sufficient income and assets to meet all maintenance needs other than medical care and who are receiving Supplemental Security Income benefits or who are determined to be aged, blind or disabled by DHS or HFS~~the Department of Public Aid~~.

"MANG(C)~~.~~" or "Medical Assistance to Needy Families with Children" – Available~~available~~ to families with one or more children who would qualify for TANF on the basis of non-financial eligibility factors but have sufficient income and assets to meet all maintenance needs other than medical care.

"Medicaid~~.~~" – Medical assistance issued by HFS~~the Department~~ under provisions

of Title XIX of the Social Security Act (42 USC~~U.S.C.~~ 1396); MAG and MANG.

"Medical Assistance~~.~~" – Medicaid.

"Medical Card~~.~~" – A means of identification used to verify an individual's eligibility for medical assistance.

"Medicare~~.~~" – Payment for medical care under the provisions of Title XVIII of the Social Security Act (42 USC 1395).

"Migrant Worker~~.~~" – Any person residing temporarily in and employed in Illinois who moves seasonally from one place to another for the purpose of employment in agricultural activities, including the planting, raising or harvesting of any agricultural or horticultural commodities and the handling, packing or processing of those~~such~~ commodities on the farm where produced or at the point of first processing.

"OASDI~~.~~" or "Old Age, Survivors, and Disability Insurance" – Often~~often~~ termed "Social Security".

"OJT~~.~~" or "On the Job Training~~ programs~~" – Programs sponsored through the TANF ~~or AFDC~~ JOBS Program, SNAP~~Food Stamp~~ Employment and Training Program or WIA~~JTPA~~.

"Participant~~.~~" – A person taking part in SNAP~~the food stamp program~~ or a DHS~~Departmental~~ employment and training program.

"Prepaid Health Plan~~.~~" – An organized system of health care responsible for providing or assuring the delivery of comprehensive health maintenance and treatment services to a voluntarily enrolled population.

"Recipient~~.~~" – An individual who receives benefits under an assistance program.

"Skilled Nursing Facility" or ~~(~~"SNF~~).~~" – A group care facility licensed by the Illinois Department of Public Health that~~which~~ provides skilled nursing care, continuous skilled nursing observations, restorative nursing and other services under professional direction with frequent medical supervision. The~~Such~~ facilities are provided for patients who need the type of care and treatment required during the post-acute phase of illness or during reoccurrences of symptoms in long-term

illness.

"Skilled Nursing Facility for Pediatrics" or (~~("~~SNF/PED~~).~~" – A group care facility licensed by the Illinois Department of Public Health that~~which~~ provides nursing care and habilitative and/or rehabilitative care to children under 18~~eighteen~~ years of age. The~~Such~~ facilities are for residents primarily diagnosed with an intellectual disability~~mentally retarded~~ or having related conditions.

"SMIB~~.~~" or "Supplementary Medical Insurance Benefits" – Coverage~~coverage~~ provided under Title XVIII of the Social Security Act for medical services other than hospitalization.

"SNAP Benefits" − The cash value of benefits a SNAP unit receives from the program.

"SNAP Employment and Training" − Employment and training program for SNAP recipients.

"SNAP Household or Unit" − For purposes of SNAP, a household or unit is defined as any of the following:

An individual living alone;

An individual living with others but customarily purchasing food and preparing meals for home consumption separate and apart from others;

A group of individuals who live together and customarily purchase food and prepare meals together for home consumption or who, because of their relationship, are required to qualify for SNAP benefits as a unit.

"Specified Relative~~.~~" – Same as caretaker relative.

"Spenddown~~.~~" – The amount by which a client's nonexempt income during the eligibility period exceeds the MANG income and asset standards.

"SSA~~.~~" – The Social Security Administration~~ of the Department of Health and Human Services~~.

"SSI~~.~~" or "Supplemental Security Income" – A~~a~~ program administered by the

Social Security Administration providing monthly aid to aged, blind or disabledAged, Blind and Disabled individuals.

"Student." – An individual who is enrolled at least half time (as defined by the institution) in any elementarygrade school, high school, vocational school, technical school, training program or institution of higher education. Enrollment in a mail, self-study or correspondence course does not meet the definition of a student.

"Supervision." – Exercising of responsibility for the child's welfare by the caretaker.

"TANF." or "Temporary Assistance for Needy Families". – Financial and medical assistance available to families with one or more dependent children.

"Temporary Caretaker." – Another individual temporarily acting as a caretaker (not included in the assistance unit) when no specified relative is available.

"UI." – Unemployment Insurance Benefits.

"Unearned Income." – All income other than earned income.

"Utilization Control." – Evaluation and review by the Department of a recipient's need for care facility, and certification of a patient's need for care as established by HFSphysicians, DHS staff and the Department of Public Health or other designated agencies or authorities.

"Vendor Payment." – Direct payment to vendors for items or services provided to clients.

"WIA" – The Federal Workforce Investment Act of 1998 (29 USC 2801 et seq.).

"Work and Basic Skills Training Program." – The DHSThe Department's employment and training program for TANF recipients.

"Work Experience." – The DHSA Department program thatwhich provides experience in a job.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 101.30 Assistance Programs

a) The types of assistance programs administered by DHS~~the Illinois Department of Public Aid~~ include: financial assistance~~, medical assistance~~ and SNAP benefits~~food stamps~~. The types of assistance programs administered by HFS include: medical assistance and child support services.

b) Financial Assistance Programs – consist~~consists~~ primarily of direct cash payments to recipients. The various financial assistance programs are:

1) Aid to the Aged, Blind or Disabled – State Supplemental Payment
For aged, blind or disabled persons.

2) Temporary Assistance for Needy Families
For families with one or more children.

3) Refugee Resettlement Program (RRP)
For refugees from any country.

4) Repatriate Program
For United States citizens and their dependents returned from a foreign country by the U.S. Department of State.

~~5) General Assistance~~
~~For individuals and families who do not qualify for assistance under the Aid to the Aged, Blind or Disabled (AABD) – State Supplemental Payment (SSP), Temporary Assistance for Needy Families (TANF) or federal Supplement Security Income (SSI) programs and who meet GA program requirements.~~

c) Medical Assistance – under which payments are made to medical providers for services provided to recipients.

1) Medicaid
For persons eligible for financial assistance under the AABD-SSP and TANF programs and for individuals not eligible for financial assistance but who meet the requirements of 89 Ill. Adm. Code 120~~those programs~~ for medical assistance~~ only~~. This includes pregnant women of any age

with no other children who would be eligible for TANF or MANG (CR) if the child had already been born. Medicaid is provided under the AFDC-F program for children under DCFS guardianship who have been placed in licensed foster care or in the home of a relative.

2) Healthy Kids
A preventative health program for all clients who are under 21 years of age and who are receiving AFDC, AABD, RRA, ~~GA,~~ MANG or TANF. Through Healthy Kids, persons are given periodic screening examinations at certain ages from birth through age 20. The screening is to diagnose and treat health problems at an early stage.

~~3) General Assistance Medical~~
~~For persons receiving financial benefits under the GA program.~~

d) SNAP~~Food Stamps~~ – provides increased food purchasing benefits to recipients. SNAP~~Food Stamp~~ benefits are available to individuals who meet the eligibility requirements of the Food and Nutrition Service of the U.S. Department of Agriculture in accordance with the Food and Nutrition~~Stamp~~ Act of 2008~~1977~~ (7 USC 2013~~U.S.C. 2017~~ et seq.).

e) Title IV-D – attempts to collect child support payments from absent parents on~~in~~ behalf of children receiving assistance. HFS~~The Department~~ enlists the cooperation of the caretaker relative in identifying, locating and securing support from an absent parent or parents or putative father. The~~Such~~ support received is subsequently paid directly to HFS~~the Department~~.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 101.40 Assistance Program Restrictions

a) An individual shall be eligible to receive financial assistance under only one of the following types of assistance programs at any one time:

1) Categorical Assistance (TANF or AABD); or~~,~~

~~2) General Assistance, or~~

2~~3~~) Assistance to Refugees, Entrants and Repatriates.

b) An individual shall be eligible to receive financial and medical assistance in only one case under one assistance program, at any one time, except that an~~:1)An~~ individual who currently receives Categorical Assistance from another state~~State~~ and has established Illinois residence (in accordance with 89 Ill. Adm. Code 112.20, 113.20, ~~114.20, 120.211,~~ 120.311~~,~~ or 121.21) may receive Supplemental Categorical Assistance in Illinois when the amount of the Illinois assistance payment level to which the individual is entitled exceeds the amount received from the other state~~State~~, if the excess is at least $10~~.00~~.

~~2) An individual who is currently receiving General Assistance shall be eligible to receive GA during the pendency of an application for Categorical Assistance or to receive the difference between the amount of the GA grant and the amount of the Categorical Grant for the month in which the individual is determined eligible for Categorical Assistance.~~

c) An individual shall not be eligible to receive SNAP benefits~~food stamps~~ as a member of more than one household at any one time.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 101.50 Reporting Suspected Fraud or Abuse

a) Any suspected fraud or abuse related to the Medical Assistance, Children's Health Insurance, Covering All Kids Health Insurance~~KidCare~~, Child Support Enforcement, ~~Transitional Assistance,~~ Aid to the Aged, Blind and Disabled, Temporary Assistance to Needy Families, SNAP~~Food Stamp~~ and Child Care Programs, and all other programs administered ~~by the Department or~~ by the Department of Human Services or the Department of Healthcare and Family Services ~~as successor agency to the Department~~, should be reported:

1) in person or by U.S. Mail to the Office of Inspector General, Department of Healthcare and Family Services~~Public Aid~~, 404 North Fifth Street, Springfield, Illinois 62702;

2) or by:

A) telephone to the Office of Inspector General at 217/524-6037~~217/524-7658~~; or

B) toll free telephone to the Medicaid and Welfare Fraud Hotline at 800/252-8903; or

C) e-mail at hfs.oigwebmaster@illinois.gov; or~~oigwebmaster@mail.idpa.state.il.us.~~

D) online at http://www.state.il.us/agency/oig/reportfraud.asp.

b) Referrals

1) Referrals of suspected fraud or abuse on the part of providers, contractors, State or other governmental employees, recipients of services or any other person will be accepted.

2) Referrals may be made anonymously.

3) All referrals, other than anonymous referrals, will be acknowledged, either in writing, by telephone, by e-mail or in person, within 30 calendar days after receipt of the referral.

c) Evaluations

1) All referrals of suspected fraud or abuse will be evaluated within 60 calendar days after receipt of the referral to determine what, if any, follow up action is appropriate.

2) Factors considered during the evaluation of any referral include, but are not limited to:

A) source of the allegation;

B) quality of the evidence of wrongdoing;

C) potential loss to the program; and

D) availability of investigative and other resources necessary for successful follow up on the referral.

3) Follow up actions include, but are not limited to, the following measures:

A) When the evaluation identifies possible criminal or civil fraud violations of the Medical Assistance Program or the Children's Health Insurance~~KidCare~~ Program or the Covering All Kids Health Insurance Program by a medical provider or contractor, the referral shall be sent to the Medicaid Fraud Control Unit of the Illinois State Police for its review for possible criminal investigation.

B) When the evaluation identifies possible criminal or civil fraud violations of any program by a recipient of services or other private citizen and is eligible for follow up action, the Office of Inspector General may initiate an investigation. Should the investigation establish evidence of a criminal or civil fraud violation, the case may be referred to the appropriate United States Attorney, the Office of Attorney General or the appropriate State's Attorney for prosecutorial consideration.

C) When the evaluation identifies possible administrative violation and is eligible for follow up action, the Office of Inspector General may initiate a review to determine the appropriate administrative action. Administrative actions include, but are not limited to:

i) claims analysis;

ii) audit;

iii) peer review;

iv) recipient restriction;

v) eligibility review; or

vi) administrative hearing.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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1) Heading of the Part: Practice in Administrative Hearings

2) Code Citation: 89 Ill. Adm. Code 104

3)

Section Numbers:	Proposed Action:
104.74	New Section
104.75	New Section
104.206	Amendment
104.208	Amendment
104.221	Amendment
104.244	Amendment
104.272	Amendment
104.274	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and PA 97-689 (SMART Act)

5) Complete Description of the Subjects and Issues Involved: These changes are implemented pursuant to amendments to 305 ILCS 5/12-4.25. The amendments:

- broaden the circumstances in which the Department is authorized to collect interest on overpayments paid to a vendor or alternate payee;

- authorize the Department to terminate, suspend or exclude vendors who pose a risk of fraud, waste, abuse or harm, and providers who constitute an immediate danger to the public, from program participation prior to an evidentiary hearing;

- authorize the Department to deny medical assistance program eligibility to individuals and entities with prior unpaid debts owed the Department, or who have been transferred assets, ownership or control from a vendor with unpaid debts;

- broaden the Department's authority to withhold payments to a vendor or alternate payee prior to the pendency of an audit, administrative appeal or administrative review, and to a vendor or alternate payee who is not properly licensed, certified, or in compliance with state or federal regulations; and

- authorize the Department to deny requests to pay or credit services provided by vendors that were rendered subsequent to a vendor's receipt of a notice to suspend or exclude the vendor from the medical assistance program.

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6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes, at 36 Ill. Reg. 10195, effective July 1, 2012 through June 30, 2013.

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers:	Proposed Action:	*Illinois Register* Citation:
104.202	Amendment	36 Ill. Reg. 18090; December 28, 2012
104.205	New	36 Ill. Reg. 18090; December 28, 2012
104.210	Amendment	36 Ill. Reg. 18090; December 28, 2012
104.221	Amendment	36 Ill. Reg. 18090; December 28, 2012
104.235	Amendment	36 Ill. Reg. 18090; December 28, 2012
104.244	Amendment	36 Ill. Reg. 18090; December 28, 2012

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

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

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives

during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded providers

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of Professional skills necessary for compliance: None

14) Regulatory Agenda on which this Rulemaking was Summarized: January 2013

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER a: GENERAL PROVISIONS

PART 104
PRACTICE IN ADMINISTRATIVE HEARINGS

SUBPART A: ASSISTANCE APPEALS

Section
104.1 Assistance Appeals
104.10 Initiation of Appeal Process
104.11 Pre-Appeal Review
104.12 Notice of Hearing
104.20 Conduct of Hearings
104.21 Representation
104.22 Appellant Participation in Hearing
104.23 Evidentiary Requirements
104.30 Subpoenas
104.35 Amendment of Appeal
104.40 Consolidation of Appeals
104.45 Postponement or Continuation of Hearings
104.50 Withdrawal of Appeal
104.55 Closing of Hearing Record
104.60 Dismissal of Appeal
104.70 Final Administrative Decision
104.74 Surety Bonds
104.75 Immediate Suspension of a Vendor
104.80 Public Aid Committee

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section
104.100 Support Order, Responsible Relative and Joint Payee Petitions
104.101 Petition for Hearing
104.102 Conduct of Administrative Support Hearings
104.103 Conduct of Hearings to Contest the Determination of Past-Due Support or of a Failure of a Licensee to Comply with a Subpoena or Warrant in a Paternity or Child Support Proceeding or of Share of Jointly-Owned Federal or State Income Tax Refunds or Other Joint Federal or State Payments

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104.104 Conduct of Other Hearings
104.105 Conduct of Hearings on Petitions for Release from Administrative Paternity Orders
104.106 Conduct of Hearings on Petitions for Family Financial Responsibility Driving Permits
104.110 Conduct of Hearings on Joint Owner's Contest of Levy of Jointly-Owned Personal Property

SUBPART C: MEDICAL VENDOR AND ALTERNATE PAYEE HEARINGS

Section
104.200 Applicability
104.202 Definitions
104.204 Notice of Denial of An Application
104.206 Notice of Intent to Recover Money
104.207 Notice of Contested Paternity Hearing
104.208 Notice of Intent to Terminate, Suspend, Exclude or Not Renew Provider Agreement or to Revoke Alternate Payee
104.209 Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to, or Failure to Comply with a Subpoena or Warrant from, a State Licensing Agency and to Take Disciplinary Action (Repealed)
104.210 Right to Hearing
104.211 Notice of Termination or Suspension Pursuant to Exclusion by the Department of Health and Human Services
104.212 Prior Factual Determinations
104.213 Demand for Judicial Determination of the Existence of the Father and Child Relationship
104.215 Notice of Formal Conference
104.216 Formal Conference on Recovery of Money
104.217 Purpose of Formal Conference
104.220 Notice of Hearing
104.221 Issues at Hearings
104.225 Legal Counsel
104.226 Appearance of Attorney or Other Representative
104.230 Notice, Service and Proof of Service
104.231 Form of Papers
104.235 Discovery
104.240 Conduct of Hearings
104.241 Amendments
104.242 Motions

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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104.243 Subpoenas
104.244 Burden of Proof
104.245 Witness at Hearings
104.246 Evidence at Hearings
104.247 Cross-Examination
104.248 Disqualification of Hearing Officers
104.249 Genetic Testing in Contested Paternity Hearings
104.250 Official Notice
104.255 Computer Generated Documents
104.260 Recommendation of Peer Review Committee
104.270 Time Limits for Hearings
104.271 Continuances and Extensions
104.272 Withholding of Payments and Release of Withholds~~During Pendency of Proceedings~~
104.273 Continuation of Payments During Pendency of Proceedings
104.274 Denial of Payments for Services During Pendency of Proceedings
104.280 Record of Hearings
104.285 Failure to Appear or Proceed
104.290 Recommended Decision
104.295 Director's Decision

SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS AGAINST SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

Section
104.300 Authority
104.302 Definitions
104.304 Department Actions Against Nursing Homes Facilities
104.310 Certification
104.320 Joint Administrative Hearing
104.330 Facilities Certified Under Both Medicare and Medicaid

SUBPART E: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS

Section
104.400 Suspected Intentional Violation of the Program
104.410 Advance Notice of Administrative Disqualification Hearing
104.420 Postponement of Hearing
104.430 Administrative Disqualification Hearing Procedures

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104.440 Failure to Appear
104.450 Participation While Awaiting a Hearing
104.460 Consolidation of Administrative Disqualification Hearing with Fair Hearing
104.470 Administrative Disqualification Hearing Decision and Notice of Decision
104.480 Appeal Procedure

SUBPART F: INCORPORATION BY REFERENCE

Section
104.800 Incorporation by Reference

SUBPART G: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

Section
104.900 Unauthorized Use of Medical Assistance
104.910 Definitions
104.920 Applicability
104.930 Notice of Intent to Recover Money
104.940 Request for Hearing
104.950 Representation
104.960 Conduct of Hearings
104.970 Recommended Decision
104.980 Final Administrative Decision

AUTHORITY: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11, p. 151, effective March 9, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 10, effective May 26, 1978; amended at 2 Ill. Reg. 33, p. 57, effective August 17, 1978; peremptory amendment at 3 Ill. Reg. 11, p. 38, effective March 1, 1979; amended at 4 Ill. Reg. 21, p.80, effective May 8, 1980; peremptory amendment at 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989; amended at 14 Ill. Reg. 18836,

effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991; amended at 16 Ill. Reg. 12903, effective August 15, 1992; amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18834, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 1321, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15711, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 29, 1995; amended at 20 Ill. Reg. 5699, effective March 28, 1996; amended at 20 Ill. Reg. 14891, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 8671, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9306, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13648, effective October 1, 1997; amended at 21 Ill. Reg. 14977, effective November 7, 1997; emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2393, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11734, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 2418, effective January 27, 2000; amended at 25 Ill. Reg. 5351, effective April 1, 2001; amended at 26 Ill. Reg. 9836, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11022, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 12306, effective July 26, 2002; amended at 26 Ill. Reg. 17743, effective November 27, 2002; amended at 27 Ill. Reg. 5853, effective March 24, 2003; amended at 27 Ill. Reg. 13771, effective August 1, 2003; amended at 28 Ill. Reg. 2735, effective February 1, 2004; emergency amendment at 29 Ill. Reg. 2735, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10187, effective June 30, 2005; amended at 31 Ill. Reg. 2387, effective January 19, 2007; amended at 32 Ill. Reg. 16797, effective October 6, 2008; amended at 33 Ill. Reg. 6283, effective April 15, 2009; amended at 35 Ill. Reg. 2030, effective January 21, 2011; amended at 35 Ill. Reg. 12900, effective July 25, 2011; amended at 36 Ill. Reg. 7530, effective May 7, 2012; amended at 36 Ill. Reg. 9086, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 10195, effective July 1, 2012 through June 30, 2013; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: ASSISTANCE APPEALS

Section 104.74 Surety Bonds

a) The following individuals and entities may be required to post a surety bond as part of a condition of enrollment or participation in the Medical Assistance Program:

1) a vendor or a prior vendor who has been terminated, excluded or suspended from the Medical Assistance Program, or from another state or federal medical assistance or health care program;

2) any individual currently or previously barred from the Medical Assistance Program, or from another state or federal medical assistance or health care program, as a result of being an officer or a person owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate or limited liability company vendor during the time of any conduct that served as the basis for that vendor's termination, suspension or exclusion;

3) a vendor or a prior vendor who has a debt owed to the Department;

4) any individual currently or previously barred from the Medical Assistance Program, or from another state or federal medical assistance or health care program, as a result of being an officer or a person owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in that corporate or limited liability company vendor who has a debt owed to the Department, when the individual was in that position during the time of any conduct that served as the basis for the vendor's debt; or

5) vendors, individuals or entities that demonstrated previous poor performance or conduct who pose a risk of fraud, waste, abuse or harm, as defined in 89 Ill. Adm. Code 140.13.

b) When required by the Department, the value of surety bond shall be based on:

1) the potential for loss to the Department;

2) the value of claims historically submitted by the individual or entity to the Department, or to another state or federal medical assistance or health care program;

3) the previous performance and conduct of the individual or entity; and

4) when a debt is owed the Department, the amount of the debt.

c) As used in this Section, "surety bond" means a bond executed by the individual or entity for enrollment or participation in the Medical Assistance Program and a person or firm authorized to conduct surety business in Illinois that obligates the guarantor to pay the Department or its designee upon default by the individual or entity in the performance of any duty the individual or entity owes to the Department or a third party.

(Source: Added at 37 Ill. Reg._____, effective _____)

Section 104.75 Immediate Suspension of a Vendor

a) Anything in this Part to the contrary notwithstanding, upon making a determination based upon information in the possession of the Department that continuation of participation in the Medical Assistance Program by a vendor would constitute an immediate danger to the public, the Department may immediately suspend the vendor's participation in the Medical Assistance Program without a prior hearing.

b) In instances in which the Department immediately suspends the Medical Assistance Program participation of a vendor under subsection (a):

1) The Department shall notify the vendor of the action in writing.

2) A hearing upon the vendor's participation shall be convened by the Department within 15 days after suspension and completed without appreciable delay.

3) The sole issue at hearing shall be held to determine whether to recommend to the Department Director that the vendor's Medical Assistance Program participation be denied, terminated, suspended, placed on provisional status or reinstated.

4) The standard of proof at the hearing shall be a preponderance of the evidence.

5) Any evidence relevant to the vendor constituting an immediate danger to the public may be introduced against the vendor. The vendor, or his or her counsel, shall have the opportunity to discredit, impeach and submit evidence rebutting the evidence.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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(Source: Added at 37 Ill. Reg._____, effective _____)

SUBPART C: MEDICAL VENDOR AND ALTERNATE PAYEE HEARINGS

Section 104.206 Notice of Intent to Recover Money

a) Institutional Vendors

1) For purposes of this Section, institutional vendors means providers enrolled in the Medical Assistance Program to provide inpatient or residential services, such as hospitals and long term care facilities.

2) The Department shall notify the institutional vendor in writing of an intent to recover money, setting forth:

A) the reason for the Department's action;~~,~~

B) a statement of the right to request a hearing;~~,~~

C) a statement of the time, place and nature of the hearing;~~,~~

D) a statement of the legal authority and jurisdiction under which the hearing is to be held;~~,~~ and

E) a reference to the Sections of the statutes and rules involved.

3) For institutional vendors, the Department will not recover money prior to the issuance of a final administrative decision, unless the Department determines that the recovery of money would be in jeopardy if the recovery does not occur prior to the completion of the hearing due to events such as, but not limited to, pending decertification of the provider or the filing of a False Claims Act (31 USC 3729) action against the provider. In these~~such~~ circumstances, the Department may recover the money prior to the completion of the hearing, and the notice shall set forth:

A) the date after which the Department will start to recover money by deducting from Department obligations to the vendor;~~,~~

B) a statement that the Department will recover the money in this

manner prior to the completion of any hearing requested;~~,~~

C) a statement that any money so recovered will be repaid to the vendor if it is determined at hearing that the recovery was not warranted;~~,~~ and

D) a statement that the vendor has the opportunity to respond prior to the date the Department will start to recover money during the pendency of the hearing and a statement of how and to whom ~~such~~ a response should be made.

4) Nothing in this subsection (a), except as provided in subsection (a)(3), shall preclude a vendor who is enrolled to provide inpatient or residential services from voluntarily having the Department recover money by deducting from Department obligations to the vendor all or part of the claimed overpayment prior to the completion of any hearing.

b) Noninstitutional Vendors

1) For purposes of this Section, noninstitutional vendors means providers enrolled in the Medical Assistance Program that do not provide inpatient or residential services.

2) The Department shall notify the noninstitutional vendor in writing of an intent to recover money setting forth:

A) the requirements described in subsection~~subsections~~ (a)(2);~~(A) through (E) of this Section,~~

B) the date after which the Department will start to recover money by deducting from Department obligations to the vendor;~~,~~

C) a statement that the Department will recover the money in this manner prior to the completion of any hearing requested;~~,~~

D) a statement that any money so recovered will be repaid to the vendor if it is determined at hearing that the recovery was not warranted;~~,~~ and

E) a statement that the vendor has the opportunity to respond prior to

the date the Department will start to recover money during the pendency of the hearing and a statement of how and to whom such a response should be made.

c) Alternate Payee
The Department shall notify the alternate payee in writing of an intent to suspend or deny payment or to recover money, setting forth:

1) the requirements described in subsectionsubsections (a)(2);(A) through (E) of this Section,

2) the date after which the Department will start to suspend, deny or recover money by deducting from Department obligations to the alternate payee;,

3) a statement that the Department will suspend, deny or recover the money in this manner prior to the completion of any hearing requested;,

4) a statement that any money so suspended, denied or recovered will be repaid to the alternate payee if it is determined at hearing that the suspension, denial or recovery was not warranted;, and

5) a statement that the alternate payee has the opportunity to respond prior to the date the Department will start to suspend, deny or recover money during the pendency of the hearing and a statement of how and to whom such a response should be made.

d) Recovery of Interest

1) The Department mayshall recover interest on the amount of an overpayment or other benefit at the rate of five percent per annum if it is established through an administrative hearing that the overpayment resulted from the institutional or noninstitutional vendor or alternate payee knowinglywillfully making, using, or causing to be made or used, a false record or statement to obtain payment or other benefit from the Medical Assistance Programor misrepresentation of a material fact in connection with billings and payments under the medical assistance program.

2) The Department shall notify the institutional or noninstitutional vendor or alternate payee in writing of its intent to recover interest on the amount of overpayment by setting forth:

A) the requirements described in subsection~~subsections~~ (a)(2);~~(A) through (E) of this Section,~~

B) a statement of the amount of overpayment or other benefit subject to recovery of interest;~~,~~

C) a statement of the amount of interest as of the date of notice;~~,~~

D) a statement that the amount of interest may continue to accrue until ~~such time as~~ the amount of overpayment or other benefit subject to interest has been paid;~~,~~

E) a statement that any amounts withheld pursuant to Section 104.272 shall first be applied to the amount not subject to the interest provisions of this subsection (c). If the amounts subject to recovery of interest are withheld, the interest will be adjusted to reflect the withholding;~~,~~ and

F) a statement that any money so recovered will be repaid to the vendor if it is determined at hearing that the recovery was not warranted.

e) Nothing in this Section shall preclude a vendor or alternate payee from voluntarily paying the amount of interest or having the Department recover the interest by deducting from Department obligations to the vendor prior to completion of the hearing. If the vendor or alternate payee has voluntarily paid the amount of overpayment subject to recovery of interest prior to the issuance of a final administrative decision, the amount of interest will cease to accrue.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 104.208 Notice of Intent to Terminate, Suspend, Exclude or Not Renew Provider Agreement or to Revoke Alternate Payee

a) Except for actions brought jointly by the Department of Healthcare and Family Services and the Department of Public Health pursuant to Section 104.300, the following provisions apply. If, in an action other than one under 89 Ill. Adm. Code 140.16(a)(2), ~~or one~~ under 89 Ill. Adm. Code 140.16(a)(10~~9~~) based on a conviction for a violation of applicable federal or state law or regulation~~the~~

~~Illinois Public Aid Code~~, or under 89 Ill. Adm. Code 140.16(c), the Department intends to terminate, ~~or~~ suspend or exclude a vendor's eligibility to participate in the Medical Assistance Program, or terminate (or not renew) a vendor's provider agreement, it shall notify the vendor in writing, setting forth:

1) the reason for the Department's action;~~,~~

2) a statement of the right to request a hearing prior to the intended action taking effect;~~,~~

3) a statement of the time, place and nature of the hearing;~~,~~

4) a statement of the legal authority and jurisdiction under which the hearing is to be held;~~,~~ and

5) a reference to the provisions of the statutes and rules involved.

b) Except for actions brought jointly by the Department of Healthcare and Family Services and the Department of Public Health pursuant to Section 104.300, the following provisions apply. If, in an action under 89 Ill. Adm. Code 140.16(a)(2), under 89 Ill. Adm. Code 140.16(a)(10) based on a conviction for a violation of applicable federal or state law or regulation, or under 89 Ill. Adm. Code 140.16(c), except in an action initiated pursuant to Section 104.211, ~~an action under 89 Ill. Adm. Code 140.16(a)(9) based on a conviction for a violation of the Illinois Public Aid Code, or an action brought against a non-emergency transportation vendor under 89 Ill. Adm. Code 140.16(a),~~ the Department intends to terminate, ~~or~~ suspend or exclude a vendor's eligibility to participate in the Medical Assistance Program, or terminate (or not renew) a vendor's provider agreement, it shall notify the vendor in writing, setting forth:

1) the reason for the Departments' action;~~,~~

2) the effective date of the action;~~,~~

3) a statement that the vendor has the opportunity to respond prior to the effective date and a statement of how and to whom such a response should be made;~~,~~

4) a statement that the action will be effective on that~~such~~ date regardless of whether any hearing requested has been completed;~~,~~

5) a statement of the right to request a hearing;~~,~~

6) a statement of the time, place and nature of the hearing;~~,~~

7) a statement of the legal authority and jurisdiction under which the hearing is to be held;~~,~~ and

8) a reference to the provisions of the statutes and rules involved.

c) In an action brought jointly against a nursing home (not an ICF/DD~~MR~~ facility) by the ~~Illinois~~ Department of Healthcare and Family Services and the ~~Illinois~~ Department of Public Health pursuant to Section 104.300 in which the Department of Healthcare and Family Services intends to terminate, suspend or deny the provider agreement, and the Department of Public Health intends to deny certification, the Departments shall notify the vendor in writing, setting forth:

1) the reason for the Departments' action;~~,~~

2) the effective date of the action;~~,~~

3) a statement that the vendor has an opportunity to respond prior to the effective date and a statement of how and to whom such a response should be made;~~,~~

4) a statement that the action will be effective on that~~such~~ date regardless of whether any hearing requested has been completed;~~,~~

5) a statement of the right to request a hearing;~~,~~

6) a statement that a hearing will be scheduled to take place within 30 days after receipt of a request for hearing;~~,~~

7) a statement of the legal authority and jurisdiction under which the hearing is to be held;~~,~~ and

8) a reference to the Sections of the statutes and rules involved.

d) In an action brought jointly against an ICF/DD~~MR~~ facility by the ~~Illinois~~

Department of Healthcare and Family Services and the ~~Illinois~~ Department of Public Health pursuant to Section 104.300 in which the Department of Healthcare and Family Services intends to terminate, suspend or deny the provider agreement, and the Department of Public Health intends to deny certification, the Departments shall notify the vendor in writing, setting forth:

1) the reason for the Departments' action;~~,~~

2) a statement of the right to request a hearing prior to the intended action taking effect;~~,~~

3) a statement that a hearing will be scheduled to take place within 30 days after receipt of a request for hearing;~~,~~

4) a statement of the legal authority and jurisdiction under which the hearing is to be held;~~,~~ and

5) a reference to the provisions of the statutes and rules involved.

e) In an action in which the Department intends to seek revocation of an alternate payee in the Medical Assistance Program, it shall notify the alternate payee in writing, setting forth:

1) the reason for the Department's action;~~,~~

2) a statement of the right to request a hearing prior to the intended action taking effect;~~,~~

3) a statement of the time, place and nature of the hearing;~~,~~

4) a statement of the legal authority and jurisdiction under which the hearing is to be held;~~,~~ and

5) a reference to the provisions of the statutes and rules involved.

f) The notice shall also inform the vendor, when~~where~~ applicable, that the final administrative decision of the Department could result in suspension for a specific period of time as well as termination.

g) For actions of the Department for the purpose of immediate suspension of a provider pursuant to Section 104.75, the Department shall notify the vendor in writing, setting forth:

1) the reason for the Department's action;

2) the effective date of the action;

3) a statement that the action will be effective on that date regardless of whether any hearing requested has been completed;

4) a statement of the time, place and nature of the hearing;

5) that the purpose of the hearing shall be to determine whether to recommend to the Director that the vendor's medical assistance program participation be denied, terminated, suspended, placed on provisional status or reinstated;

6) a statement of the legal authority and jurisdiction under which the hearing is to be held; and

7) a reference to the provisions of the statutes and rules involved.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 104.221 Issues at Hearings

a) The sole issue at a hearing in which the basis for denial of an application pursuant to 89 Ill. Adm. Code 140.14(d) is that the vendor does not have a necessary license, certificate or authorization shall be whether the vendor has such a license, certificate or authorization.

b) The sole issue at a hearing in which the basis of the denial of an application is as set forth in 89 Ill. Adm. Code 140.14(b) shall be whether the vendor has demonstrated, according to the factors listed in that Section, in light of the prior activities, that he or she should be admitted to the Medical Assistance Program.

c) The only issues at a hearing in which the basis of the denial of an application is as set forth in:

1) 89 Ill. Adm. Code 140.14(e)(1) shall be whether the applicant or any person with management responsibility for the applicant, an officer or member of the board of directors of the applicant, an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor applicant, an owner of a sole proprietorship applicant, a partner in a partnership applicant, or a technical or other advisor to the applicant has a debt owed to the Department and/or whether payment arrangements acceptable to the Department have been made by the applicant.

2) 89 Ill. Adm. Code 140.14(e)(2) shall be whether the applicant or any person with management responsibility for the applicant, an officer or member of the board of directors of the applicant, an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor applicant, an owner of a sole proprietorship applicant, a partner in a partnership vendor applicant, or a technical or other advisor to the applicant was a person with management responsibility, an officer or member of the board of directors of an applicant, an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor, an owner of a sole proprietorship, a partner in a partnership vendor, or a technical or other advisor to a vendor during the period of time when the conduct of that vendor resulted in a debt owed to the Department and/or whether payment arrangements acceptable to the Department have been made by that vendor.

3) 89 Ill. Adm. Code 140.14(e)(3) shall be whether the allegation of the use, transfer or lease of assets of any kind to the applicant from a current or prior vendor who has a debt owed to the Department is credible, whether payment arrangements acceptable to the Department have been made by that vendor or the vendor's alternate payee, and/or whether the applicant knows or should have known of the debt.

4) 89 Ill. Adm. Code 140.14(e)(4) shall be whether the allegation of a transfer of management responsibilities, or direct or indirect ownership, to an applicant from a current or prior vendor who has a debt owed to the Department is credible, whether payment arrangements acceptable to the Department have been made by that vendor or the vendor's alternate payee, and/or whether the applicant knows or should have known of the debt.

5) 89 Ill. Adm. Code 140.14(e)(5) shall be whether the allegation of the use, transfer or lease of assets of any kind to an applicant who is a spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, relative by marriage, or relative of a current or prior vendor who has a debt owed to the Department is credible and/or whether payment arrangements acceptable to the Department have been made.

6) 89 Ill. Adm. Code 140.14(e)(6) shall be whether the allegation that the applicant's previous affiliations with a provider of medical services that has an uncollected debt, a provider that has been or is subject to a payment suspension under a federal health care program, or a provider that has been previously excluded from participation in the Medical Assistance Program poses a risk of fraud, waste or abuse to the Department is credible.

d)~~c)~~ The sole issue at a hearing in which the basis for termination is as set forth in 89 Ill. Adm. Code 140.16(a)(2) shall be whether the appropriate licensing, certifying or authorizing agency has determined that the vendor does not have a necessary license, certification or authorization.

e)~~d)~~ The sole issue at a hearing requested by a previously suspended vendor that is being terminated pursuant to 89 Ill. Adm. Code 140.19(b) shall be whether the vendor has corrected the deficiencies on which the suspension was based.

f)~~e)~~ At a hearing conducted pursuant to Subpart D of this Part, the sole relevant time with respect to the existence of the violations of the Department's requirements alleged in the notice shall be the date or dates in the notice.

g)~~f)~~ The only issue at a hearing initiated pursuant to 89 Ill. Adm. Code 140.16(c) is whether the vendor is not in compliance with State income tax requirements, child support requirements of Article X of the Public Aid Code, or educational loans guaranteed by the Illinois Student Assistance Commission.

h) The sole issue at hearing requested by a person or entity with a debt due the State pursuant to Section 12-4.25(F-15)(3) of the Public Aid Code shall be whether the person or entity has failed to comply with judgment on which the debt is based.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 104.244 Burden of Proof

a) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.14 shall be on the Department if the application was denied because the vendor engaged in activities that constitute grounds for termination or was denied pursuant to 89 Ill. Adm. Code 140.14(c). The burden of proof shall be on the applicant if the application was denied because of:

1) a determination that a previously terminated or barred vendor cannot reasonably be expected to meet the requirements of the Department; ~~or~~

2) a determination that, based on the activities that served as the basis for terminating or barring a vendor, the application should not be approved; or~~.~~

3) denial of the eligibility of the applicant pursuant to 89 Ill. Adm. Code 140.14(e).

b) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.15 or Subpart D of this Part shall be on the Department.

c) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.16 shall be on the Department.

d) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.32 shall be on the party seeking special permission, and in hearings conducted pursuant to 89 Ill. Adm. Code 140.19(b) shall be on the vendor.

e) In the case of any new matter introduced in connection with any affirmative defense, the burden of proof with respect to that new matter shall be upon the party that alleges the new matter.

f) The standard of proof with respect to all hearings conducted pursuant to this Part shall be a preponderance of the evidence.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 104.272 Withholding of Payments and Release of Withholds~~During Pendency of Proceedings~~

a) Payments to any vendor or alternate payee on pending and subsequently submitted bills may be withheld prior to or during the pendency of any audit, administrative appeal or administrative review proceeding by any court~~the administrative proceeding~~:

1) In which~~Where~~:

A) the administrative proceeding seeks the termination, exclusion or suspension of the provider or revocation of the alternate payee; or

B) the administrative hearing is seeking recovery of money and the recovery is at risk due to the financial or other circumstances of the provider or the alternate payee.

2) In which~~Where~~ the administrative proceeding is seeking recovery of money only, the withholding shall be limited to the amount sought in the recovery and in conformance with Section 104.273.

b) A provider or alternate payee may request a full or partial release of withheld payments. The provider must submit a request, in writing, setting forth the reasons the payments should be released, to the Office of Inspector General at either 404 North Fifth Street, Springfield, Illinois 62702, or by e-mail to Oigwebmaster@illinois.gov.state.il.us. The request should set forth the reasons for the request in conformance with subsection (c) of this Section.

c) Partial or full release of payments on pending and subsequently submitted bills may be granted, at the discretion of the Inspector General of the Department, based on the following factors:

1) The Department has not proceeded in a timely manner in presentation of its case in the administrative proceeding, including, but not limited to, lengthy delays in the availability of Department witnesses, attorneys or Administrative Law Judges.

2) When~~Where~~ it is in the best interests of the recipients of medical assistance. This may include, but is not limited to, access to medical services for recipients or the potential movement of patients from long term care settings.

3) When~~Where~~, based on the reasons for the initiation of the proceeding, the

full or partial release of payments would not be, in the judgment of the Inspector General, detrimental to the recipients or the Department.

4) Whether the provider or alternate payee has caused delays in proceeding in a timely manner, including, but not limited to, delays in the availability of witnesses or attorneys.

d) The Inspector General will notify the provider or alternate payee in writing of the decision on the request for release of payments.

e) Payments on pending and subsequently submitted bills will not be released if:

1) The basis for the termination, exclusion, suspension or revocation is a criminal conviction.

2) The basis for the termination, exclusion, suspension or revocation is the termination, revocation or denial of a professional license or certification.

3) The provider or alternate payee has had payments suspended pursuant to Section ~~305 ILCS 5/~~12-4.25(K) or (K-5) of the Public Aid Code or 42 CFR 455.23.

4) The provider or alternate payee has had payments suspended pursuant to Section~~305 ILCS 5/~~12-4.25(F-5) of the Public Aid Code.

f) The Inspector General may release partial payment when, in the judgment of the Inspector General, full release of payments is not warranted pursuant to subsection (b) of this Section, but a partial release would meet these criteria.

g) The Inspector General may again institute full or partial withholding of payments after a full or partial release of payments if:

1) The provider or alternate payee has not proceeded in a timely manner in presentation of its case in the administrative proceeding, including, but not limited to, lengthy delays in the availability of witnesses or attorneys.

2) The provider's or alternate payee's professional license or certification has been revoked, suspended, denied or otherwise not renewed.

h) If the provider is terminated, excluded or suspended, or the alternate payee is

revoked, as a result of final agency action, payments or credit for any services rendered subsequent to receipt of the notice of intent to terminate, after a final decision has been rendered, or after the conclusion of any administrative appeal, shall be denied. The provider or alternate payee will receive payment or credit for services rendered prior to receipt of the notice of intent to terminate, exclude, suspend or revoke subject to setoff for recovery of the amount sought in the proceeding.

i) If the payments have been suspended pursuant to Section305 ILCS 5/12-4.25(F-5) of the Public Aid Code and the indictment or charge results in conviction, all withheld payments shall be considered forfeited to the Department. If the indictment or charge does not result in conviction, payments pending and subsequently submitted bills will be released, unless the provider is involved in any other proceeding in which payments are being withheld.

j) If the provider or alternate payee is convicted of ana felony offense of the type described in Section305 ILCS 5/12-4.25(F-5) of the Public Aid Code, the Department may withhold payments from the provider or alternate payee from the date of conviction until the date the provider or alternate payee receives a notice of intent to terminate, exclude, suspend or revoke. Once the provider or alternate payee receives a notice of intent to terminate, exclude, suspend or revoke, the Department may continue to withhold payments during the pendency of the administrative proceeding.

k) If payments have been withheld pursuant to Section 305 ILCS 5/12-4.25(K) or, (K-5) of the Public Aid Code, 42 CFR 455.23, or 89 Ill. Adm. Code 140.44, and the Department commences an administrative proceeding that seeks the termination, exclusion or suspension of the provider or revocation of the alternate payee, the Department shall continue to withhold payments during the pendency of the administrative proceeding. If the provider is terminated, excluded or suspended, or the alternate payee is revoked, as a result of final agency action, the withheld payments shall be denied.

l) The Department may withhold payments to any vendor or alternate payee who is not properly licensed, certified or in compliance with State or federal agency regulations. Payments may be denied for bills submitted with service dates occurring during the period of time that a vendor is not properly licensed, certified or in compliance with State or federal regulations; provided, however, that facilities licensed under the Nursing Home Care Act [210 ILCS 45] shall have

payments denied or withheld pursuant to Section 12-4.25(I) of the Public Aid Code.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 104.274 Denial of Payments for Services During Pendency of Proceedings

If the vendor is terminated, suspended or excluded, or the alternate payee is revoked, as a result of final agency action, payments or credit for any services rendered subsequent to receipt of the notice of intent to terminate, suspend, exclude or revoke shall be denied unless:

a) Pursuant to Section 104.273, payments were not withheld; or

b) Pursuant to Section 104.272, previously withheld payments for such services had been released.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Medical Assistance Programs

2) Code Citation: 89 Ill. Adm. Code 120

3)

Section Numbers:	Proposed Action:
120.34	Repeal
120.80	Amendment
120.347	Amendment
120.379	Amendment
120.380	Amendment
120.381	Amendment
120.385	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: This rulemaking is authorized pursuant to Public Act 97-689, the Save Medicaid Access and Resources Together (SMART) Act. The SMART Act terminated, as of 7/1/12, eligibility for caretaker relatives in the Family Care Program who have income over 133% of the federal poverty level. The SMART Act also authorizes the tightening of the long term care asset testing policy for persons who seek to utilize institutional services.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? Yes

Section Number:	Proposed Action:	*Illinois Register* Citation:
120.560	New Section	36 Ill. Reg. 9636; July 6, 2012

11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

12) Time, Place and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

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

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not applicable

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this Rulemaking was Summarized: January 2013

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120
MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section
120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section
120.10 Eligibility for Medical Assistance
120.11 MANG(P) Eligibility
120.12 Healthy Start – Medicaid Presumptive Eligibility Program For Pregnant Women
120.14 Presumptive Eligibility for Children
120.20 MANG(AABD) Income Standard
120.30 MANG(C) Income Standard
120.31 MANG(P) Income Standard
120.32 FamilyCare Assist
120.34 FamilyCare Share and FamilyCare Premium Level 1 (Repealed)
120.40 Exceptions To Use Of MANG Income Standard (Repealed)
120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section
120.60 Community Cases
120.61 Long Term Care
120.62 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings Under 89 Ill. Adm. Code 140.643 (Repealed)
120.63 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings (Repealed)
120.64 MANG(P) Cases
120.65 Department of Mental Health and Developmental Disabilities (DMHDD) Licensed Community – Integrated Living Arrangements (Repealed)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: MEDICARE PREMIUMS

Section
120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
120.73 Eligibility for Payment of Medicare Part B Premiums for Specified Low-Income Medicare Beneficiaries (SLIBs) and Qualified Individuals-1 (QI-1)
120.74 Qualified Medicare Beneficiary (QMB) Income Standard
120.75 Specified Low-Income Medicare Beneficiaries (SLIBs) and Qualified Individuals-1 (QI-1) Income Standards
120.76 Hospital Insurance Benefits (HIB)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section
120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

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

SUBPART G: AID TO THE MEDICALLY INDIGENT

Section
120.200 Elimination Of Aid To The Medically Indigent
120.208 Client Cooperation (Repealed)
120.210 Citizenship (Repealed)
120.211 Residence (Repealed)
120.212 Age (Repealed)
120.215 Relationship (Repealed)
120.216 Living Arrangement (Repealed)
120.217 Supplemental Payments (Repealed)
120.218 Institutional Status (Repealed)
120.224 Foster Care Program (Repealed)
120.225 Social Security Numbers (Repealed)
120.230 Unearned Income (Repealed)
120.235 Exempt Unearned Income (Repealed)

120.236 Education Benefits (Repealed)
120.240 Unearned Income In-Kind (Repealed)
120.245 Earmarked Income (Repealed)
120.250 Lump Sum Payments and Income Tax Refunds (Repealed)
120.255 Protected Income (Repealed)
120.260 Earned Income (Repealed)
120.261 Budgeting Earned Income (Repealed)
120.262 Exempt Earned Income (Repealed)
120.270 Recognized Employment Expenses (Repealed)
120.271 Income From Work/Study/Training Program (Repealed)
120.272 Earned Income From Self-Employment (Repealed)
120.273 Earned Income From Roomer and Boarder (Repealed)
120.275 Earned Income In-Kind (Repealed)
120.276 Payments from the Illinois Department of Children and Family Services (Repealed)
120.280 Assets (Repealed)
120.281 Exempt Assets (Repealed)
120.282 Asset Disregards (Repealed)
120.283 Deferral of Consideration of Assets (Repealed)
120.284 Spend-down of Assets (AMI) (Repealed)
120.285 Property Transfers (Repealed)
120.290 Persons Who May Be Included in the Assistance Unit (Repealed)
120.295 Payment Levels for AMI (Repealed)

SUBPART H: MEDICAL ASSISTANCE – NO GRANT (MANG) ELIGIBILITY FACTORS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

120.321 Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.322 Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.323 Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
120.324 Health Insurance Premium Payment (HIPP) Program
120.325 Health Insurance Premium Payment (HIPP) Pilot Program
120.326 Foster Care Program
120.327 Social Security Numbers
120.328 Compliance with Employment and Work Activity Requirements (Suspended; Repealed)
120.329 Compliance with Non-Economic Eligibility Requirements of Article IV (Suspended; Repealed)
120.330 Unearned Income
120.332 Budgeting Unearned Income
120.335 Exempt Unearned Income
120.336 Education Benefits
120.338 Incentive Allowance
120.340 Unearned Income In-Kind
120.342 Child Support and Spousal Maintenance Payments
120.345 Earmarked Income
120.346 Medicaid Qualifying Trusts
120.347 Treatment of Trusts and Annuities
120.350 Lump Sum Payments and Income Tax Refunds
120.355 Protected Income
120.360 Earned Income
120.361 Budgeting Earned Income
120.362 Exempt Earned Income
120.363 Earned Income Disregard – MANG(C)
120.364 Earned Income Exemption
120.366 Exclusion From Earned Income Exemption
120.370 Recognized Employment Expenses
120.371 Income From Work/Study/Training Programs
120.372 Earned Income From Self-Employment
120.373 Earned Income From Roomer and Boarder
120.375 Earned Income In-Kind
120.376 Payments from the Illinois Department of Children and Family Services
120.379 Provisions for the Prevention of Spousal Impoverishment
120.380 Resources

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

120.381 Exempt Resources
120.382 Resource Disregard
120.383 Deferral of Consideration of Assets
120.384 Spenddown of Resources
120.385 Factors Affecting Eligibility for Long Term Care Services
120.386 Property Transfers Occurring On or Before August 10, 1993
120.387 Property Transfers Occurring On or After August 11, 1993 and Before January 1, 2007
120.388 Property Transfers Occurring On or After January 1, 2007
120.390 Persons Who May Be Included In the Assistance Unit
120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later
120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
120.395 Payment Levels for MANG (Repealed)
120.399 Redetermination of Eligibility
120.400 Twelve Month Eligibility for Persons under Age 19

SUBPART I: SPECIAL PROGRAMS

Section
120.500 Health Benefits for Persons with Breast or Cervical Cancer
120.510 Health Benefits for Workers with Disabilities
120.520 SeniorCare (Repealed)
120.530 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
120.540 Illinois Healthy Women Program
120.550 Asylum Applicants and Torture Victims

120.TABLE A Value of a Life Estate and Remainder Interest
120.TABLE B Life Expectancy (Repealed)

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13] and implementing the federal Deficit Reduction Act of 2005.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective

October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, l983; amended at 7 Ill. Reg. 8264, effective July 5, l983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg.

16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days;

amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; emergency rule suspended at 31 Ill. Reg. 16060, effective November 13, 2007; emergency rule repealed, effective May 10, 2008; peremptory amendment at 32 Ill. Reg. 7212, effective April 21, 2008; peremptory amendment suspended at 32 Ill. Reg. 8450, effective May 20, 2008; peremptory amendment repealed under Section 5-125 of the Illinois Administrative Procedure Act, effective November 16, 2008; amended at 32 Ill. Reg. 17428, effective November 1, 2008; peremptory amendment at 32 Ill. Reg. 18889, effective November 18, 2008; peremptory amendment suspended at 32 Ill. Reg. 18906, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 6551, effective April 28, 2009; peremptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 6712, effective April 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 1681, effective February 1, 2009; amended at 33 Ill. Reg. 2289, effective March 1, 2009; emergency amendment at 33 Ill. Reg. 5802, effective April 2, 2009, for a maximum of 150 days; emergency expired August 29, 2009; emergency amendment at 33 Ill. Reg. 10785, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 12703, effective September 7, 2009; amended at 33 Ill. Reg. 15707, effective November 2, 2009; amended at 33 Ill. Reg. 17070, effective December 2, 2009; amended at 34 Ill. Reg. 889, effective December 30, 2009; emergency rulemaking at 34 Ill. Reg. 13538, effective September 1, 2010, for a

maximum of 150 days; amended at 35 Ill. Reg. 379, effective December 27, 2010; amended at 35 Ill. Reg. 979, effective January 1, 2011; amended at 35 Ill. Reg. 18645, effective January 1, 2012; amended at 36 Ill. Reg. 4133, effective March 1, 2012; amended at 36 Ill. Reg. 9095, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 10253, effective July 1, 2012 through June 30, 2013; amended at 36 Ill. Reg. 17044, effective November 26, 2012; emergency amendment at 36 Ill. Reg. 17549, effective December 3, 2012 through June 30, 2013; amended at 37 Ill. Reg. _____, effective _____.

SUBPART B: ASSISTANCE STANDARDS

Section 120.34 FamilyCare Share and FamilyCare Premium Level 1 (Repealed)

~~a) A caretaker relative (see Section 120.390) who is 19 years of age or older qualifies for medical assistance when countable income is at or below the appropriate income standard.~~

~~b) The caretaker relative may not be otherwise eligible for medical assistance, including Section 120.32.~~

~~c) The appropriate income standard is 185 percent of the Federal Poverty Income Level Guidelines, as published annually in the Federal Register, for the appropriate family size. If income is greater than this amount, the Department shall compare it to the MANG(C) Income Standard in Section 120.30 to determine the spenddown amount.~~

~~d) Caretaker relatives will be enrolled into either FamilyCare Share or FamilyCare Premium Level 1 as follows:~~

~~1) If monthly countable income is above 133 percent and at or below 150 percent of the Federal Poverty Level (FPL) for the number of persons in the family, coverage under FamilyCare Share shall be effective as established in 89 Ill. Adm. Code 110.34.~~

~~2) If monthly countable income is above 150 percent and at or below 185 percent of the FPL for the number of persons in the family, an eligible caretaker relative shall be enrolled prospectively in FamilyCare Premium Level I and premiums shall be payable as established in subsection (f)(1) of this Section. Coverage for months prior to the first prospective month of coverage as established in 89 Ill. Adm. Code 110.34 shall be dependent~~

~~on payment of premiums for those months as set forth in subsection (f)(2) of this Section.~~

~~3) The first month of prospective eligibility for caretaker relatives whose eligibility for FamilyCare Premium Level 1 is determined by the 15th of the month will be the following month. The first month of prospective eligibility for caretaker relatives whose eligibility for FamilyCare Premium Level 1 is determined after the 15th day of the month will be the second month following that determination.~~

~~e) Caretaker relatives enrolled in FamilyCare Premium Level 1 must pay monthly premiums based upon based upon the total number of adults in the family enrolled in FamilyCare Premium Level 1 and children in the family enrolled under 89 Ill. Adm. Code 125.240(c)(2).~~

~~1) The premium amounts are $15 for one person, $25 for two persons, $30 for three persons, $35 for four persons, and $40 for five or more persons.~~

~~2) Premiums are billed by and payable to the Department, or its authorized agent, on a monthly basis.~~

~~3) The premium due date will be the last day of the calendar month preceding the month of coverage.~~

~~4) No premiums will be charged to families with an enrolled person who is an American Indian or Alaska Native.~~

~~f) FamilyCare Premium Level 1 premiums shall be due as follows:~~

~~1) Premiums owed for the first prospective month of coverage and each subsequent month shall be due by the last day of the month preceding the month of coverage. Participants shall have a minimum grace period through the end of the month of coverage to pay the premium. Failure to pay the full monthly premium by the last day of the grace period will result in termination of coverage.~~

~~2) Coverage for the months of eligibility prior to the first prospective month of eligibility will not be authorized until the premium payment is received.~~

~~3) Partial premium payments will not be refunded.~~

~~g) An eligible caretaker relative becomes ineligible due to:~~

~~1) For those with countable income above 150 percent FPL, not paying the required premiums.~~

~~2) For those with countable income above 150 percent FPL, not repaying a rebate overpayment under 89 Ill. Adm. Code 125 to the Department, according to terms established by the Department, which may include recoupment out of future rebate payments or a payment plan.~~

~~h) Following termination of coverage under FamilyCare, the following action is required before the caretaker relative can be re-enrolled:~~

~~1) For caretaker relatives with countable income above 150 percent of the FPL, there must be full payment of premiums under Section 120.510 of FamilyCare, AllKids Premium Levels 1-8 under 89 Ill. Adm. Code 123 or 89 Ill. Adm. Code 125, Health Benefits for Workers with Disabilities under Section 120.510 of this Part, or Veterans Care under 89 Ill. Adm. Code 128, for periods in which a premium was owed, including premiums owed when the caretaker relative was, for purposes of this Part, a member of another family;~~

~~2) For persons with countable income above 150 percent of the FPL, any overpayment of rebates must be repaid to the Department. A rebate overpayment shall be considered repaid if the Department can recoup the overpayment out of future rebate payments; and~~

~~3) The first month's premium must be paid if the caretaker relative is eligible for FamilyCare Premium Level 1 and there was an unpaid premium on the date the caretaker relative's previous eligibility was cancelled.~~

~~i) An application will be denied if any of the eligible caretaker relatives with income above 150 percent of the FPL in the family was responsible as a caretaker relative, or eligible as a caretaker relative during a period for which a premium under FamilyCare was due to the Department, and the premium remains unpaid at the time of application. That application shall be denied, regardless of whether the caretaker relative for whom the premium remains unpaid is included in the application.~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section 120.80 Recipient Restriction Program

a) The Recipient Restriction Program (RRP) shall identify recipients who unnecessarily utilize medical services. When the Department determines, on the basis of statistical norms and the medical judgment of individual practitioners and/or pharmacists, or other providers, that a Medicaid recipient has received medical services that are not medically necessary based on the recipient's diagnoses and/or medical condition or conditions or in such a manner as to constitute an abuse of medical privileges or Program services, the decision to restrict a recipient to one or more primary provider types will be made. For purposes of this Section, "primary provider type" means an individual practitioner in any of the following licensed or certified health care professions: physician, optometrist, chiropractor, pharmacist, dentist, any advanced practice nurse, registered nurse, licensed practical nurse, genetic counselor, physical therapist, podiatrist, speech therapist, psychologist, audiologist, occupational therapist or physician assistant. A primary provider type also means a business entity, partnership or group practice comprised of or employing any of the individual practitioners listed in this subsection (a). A primary provider type can also mean any of the following: hospice provider, home health agency, transportation provider, community health agency, imaging service, optical company, optician, optometrist, independent laboratory, clinical social worker, Department of Human Services-Division of Alcohol and Substance Abuse provider, durable medical equipment provider, provider of medical equipment and supplies, case management provider, behavioral health professional provider, a provider of services authorized under a federal Medicaid waiver, or any other provider of medical assistance programs authorized under the Illinois Public Aid Code or its administrative rules.~~a primary care provider, primary care pharmacy, primary care dentist, primary care podiatrist, or primary durable medical equipment provider.~~ The RRP applies to all medical assistance programs administered by the Department, with the exception of full risk Managed Care Organizations (MCO).

b) Primary and Secondary Sources of Recipient Identification

1) The primary source of recipient identification shall be the Surveillance and Utilization Review Subsystem (SURS) of the Medicaid Management Information System (MMIS). On an ongoing basis, SURS analyzes the

Medicaid population, determines medical usage per recipient and will identify recipients with usages in excess of the established norm of recipients in the same category of assistance and like demographic areas.

2) Secondary sources of identification shall be incoming referrals, such as referrals from medical providers, law enforcement officials or members of the general public. All referrals shall be reviewed and analyzed. Recipients found to have loaned or altered their medical cards for the purpose of obtaining medical benefits for which they or other persons are not legitimately entitled; falsely represented medical coverage; found in possession of blank or forged prescription pads; or who knowingly assisted providers in rendering excessive services or defrauding the Medical Assistance Program shall be restricted.

c) Once a recipient is identified, medical usage based on diagnoses and/or medical condition for the preceding 24 months shall be reviewed. Medical Assistance Consultants and licensed individual practitioners and/or pharmacists will determine if the recipient should be restricted due to the medical services received being not medically necessary. The Department shall initially designate, without regard to choice, a primary provider type or types (type). The Department's designation shall remain in effect for the entire period of the restriction unless the recipient changes this designation pursuant to subsection (f) of this Section. Each recipient to be restricted will be notified in writing. This notice will also contain a statement relating to the medical necessity of services consistent with the findings of the professional consultants; a statement advising the recipient of his or her right to appeal; and a toll-free number to call for information.

d) Department Designated Primary Provider Type

1) The Department will select the applicable primary provider type in reasonable geographical proximity to the recipient's home to serve as the recipient's primary provider type.

2) The primary provider type must be a properly enrolled Medicaid provider in good standing with the Department, properly licensed and credentialed and willing to serve as a primary provider type.

3) If a primary care provider is selected as the primary provider type, he or she shall be a medical doctor or doctor of osteopathy licensed to practice medicine in all of its branches or a clinic enrolled to provide primary care.

e) Types of Services Provided or Authorized

1) Once restricted, the Recipient Eligibility Verification (REV) system shall display information regarding the primary provider type. REV will also display information that emergency services will not be restricted.

2) If restricted to a primary care provider, the primary care provider must provide or authorize the following non-emergency ambulatory care services for the restricted recipient before the Department will render payment for the services:

A) Clinic

B) Laboratory

C) Outpatient Hospital

D) Pharmacy

E) Physician

3) If restricted to a primary care pharmacy, the primary care pharmacy must supply all prescriptions for the restricted recipient. Authorization to obtain non-emergency prescriptions from any other source will only be approved when a specific item is not part of the primary care pharmacy's inventory and cannot be acquired through the primary care pharmacy.

4) If restricted to a primary care dentist, the primary care dentist must provide or authorize all dental services for the restricted recipient before the Department will render payment for the dental services.

5) If restricted to a primary care podiatrist, the primary care podiatrist must provide or authorize all podiatric services for the restricted recipient before the Department will render payment for the podiatric services.

6) If restricted to a primary durable medical equipment provider, the primary durable medical equipment provider must supply all medical supplies for the restricted recipient. Authorization to obtain medical supplies from any other source will only be approved when a specific item is not part of the

primary durable medical equipment provider's inventory and cannot be acquired through the primary durable medical equipment provider.

7) Other covered services may be provided by a qualified provider in the Department's Medical Program.

f) Changing the Designated Primary Provider Type

1) The recipient may change the Department's initial designation of a primary provider type once without cause. The request for change must be submitted to the Department in writing. The Department, by notice, shall inform the recipient how to request a change in primary provider type.

2) The recipient may change his or her designated provider for cause if one of the following circumstances is verified:

A) Change of recipient's residence from the geographical area of the primary provider type;

B) Change in the recipient's medical condition that the primary provider type is unable to treat or refer to another provider;

C) Death of the primary provider type;

D) Disenrollment of the primary provider type from the Medical Assistance Program; and

E) Notice from the primary provider type that he, she or it will no longer serve as the primary provider type.

3) The Department will notify the recipient in writing if the primary provider type has disenrolled as a provider of Medicaid services or if the provider notifies the Department of his, her or its unwillingness to continue to serve as the recipient's primary provider type.

4) Changes in designated primary provider type shall be processed effective with the earliest possible date reflected on the eligibility file.

5) For the designated primary provider type, the Department will determine

if the requested change meets the criteria in subsection (d) of this Section.

g) Length of Restriction

1) Once recipients are restricted they remain in restriction for a minimum of four full quarters. If restricted recipients transfer to a different assistance unit, the restriction will be processed to follow the recipient. If a restricted recipient becomes inactive and is subsequently reactivated, the restriction will be reactivated until such time as four full quarters have elapsed.

2) Reevaluation of the Recipient's Medical Usage

A) When a recipient has had his or her medical card restricted for four full quarters, the Department shall reevaluate the recipient's medical usage to determine whether the recipient continues to receive medical services that are not medically necessary. The Department shall evaluate each case not later than eighteen months after the effective date of restriction. If the recipient is still receiving medical services that are not medically necessary, the restriction shall be continued for an additional period of eight full quarters. This additional period of eight full quarters shall begin with the first month immediately following the end of the first four full quarter restriction period. If the recipient no longer is receiving medical services that are not medically necessary, the restriction shall be discontinued. A "quarter", for purposes of this Section, shall be defined as one of the following three-month periods of time: January-March, April-June, July-September or October-December.

B) If necessary to determine if medical services that are not medically necessary are still being received, the Department shall obtain a complete copy of the recipient's medical record from the primary provider type. The medical record will be reviewed by the Medical Assistant Consultant with a final determination by a licensed individual practitioner to determine if the medical services received were medically necessary.

C) If the decision is to release the recipient from restriction, such release will be processed effective with the earliest possible date reflected on the eligibility file.

D) If the services are determined to be medically unnecessary, the recipient will be notified in writing of the continued restriction. The Department may designate a different individual provider type. The criteria in subsection (d) of this Section shall apply. This notice will also contain a statement relating to the medical necessity of services consistent with the findings of the professional consultants; a statement advising the recipient of his or her right to appeal; and a toll-free number to call for information.

3) If the restriction is continued, a review will be conducted in accordance with subsection (g)(2) of this Section, subsequent to the additional eight quarter period.

4) A recipient who has been restricted under this Section, is released and then is restricted under this Section a subsequent time, shall be restricted for a period of eight full quarters. Subsequent to this eight quarter period, a review will be conducted in accordance with subsection (g)(2) of this Section.

h) Recipients have the right to appeal inclusion in the program. (See 89 Ill. Adm. Code 102.80 through 102.84.)

i) Any recipient in the RRP who subsequently enrolls in a full risk MCO will be released from the RRP.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART H: MEDICAL ASSISTANCE – NO GRANT (MANG) ELIGIBILITY FACTORS

Section 120.347 Treatment of Trusts and Annuities

a) This Section applies to trusts established on or after August 11, 1993.

b) A trust is any arrangement in which a grantor transfers property to a trustee or trustees with the intention that it be held, managed or administered by the trustee or trustees for the benefit of the grantor or designated beneficiaries. A trust also includes any legal instrument or device that is similar to a trust, including an annuity.

c) A person shall be considered to have established a trust if resources of the person were used to form all or part of the principal of the trust and the trust is established (other than by will) by any of the following:

1) the person;

2) the person's spouse; or

3) any other person, including a court or administrative body, with legal authority to act on behalf of or at the direction of the person or the person's spouse.

d) This Section does not apply to the following trusts:

1) an irrevocable trust containing the resources of a person who is determined disabled (as provided in Section 120.314) and under age 65 that is established by a parent, grandparent, legal guardian or court for the sole benefit (as defined in Section 120.388(m)(2)) of the person, if language contained in the trust stipulates that any amount remaining in the trust (up to the amount expended by the Department on medical assistance) shall be paid to the Department upon the death of the person. This exclusion continues after the person reaches age 65 as long as the person continues to be disabled but any additions made by the person to the trust after age 65 will be treated as a transfer of assets under Sections 120.387 and 120.388. If the trust contains proceeds from a personal injury settlement, any Department charge (as described at 89 Ill. Adm. Code 102.260) must be satisfied in order for the trust to be excluded under this subsection; or

2) an irrevocable trust containing the resources of a person who is determined disabled (as provided in Section 120.314) that is established and managed by a non-profit association that pools funds but maintains a separate account for each beneficiary that is established by the disabled person, a parent, grandparent, legal guardian or court for the sole benefit of the disabled person, if language contained in the trust stipulates that any amount remaining in the trust (up to the amount expended by the Department on medical assistance) that is not retained by the trust for reasonable administrative costs related to wrapping up the affairs of the subaccount shall be paid to the Department upon the death of the person.

After a person reaches age 65, any funding by or on behalf of the person to the trust shall be treated as a transfer of assets for less than fair market value unless the person is a ward of a county public guardian or the State guardian pursuant to Section 13-5 of the Probate Act of 1975 [755 ILCS 5] or Section 30 of the Guardianship and Advocacy Act [20 ILCS 3955] and lives in the community or the person is a ward of a county public guardian or the State guardian pursuant to Section 13-5 of the Probate Act of 1975 or Section 30 of the Guardianship and Advocacy Act and a court has found that any expenditures from the trust will maintain or enhance the person's quality of life. ~~This exclusion continues after the person reaches age 65 as long as the person continues to meet the definition of disabled (to the extent permitted under federal law). Any funding of a subaccount in a pooled trust by a person over age 64 will be treated as a transfer for fair market value under Section 120.388 so long as the person meets the definition of disabled.~~ If the trust contains proceeds from a personal injury settlement, any Department charge (as described at 89 Ill. Adm. Code 102.260) must be satisfied in order for the trust to be excluded under this subsection (d).

e) Subsections (f) and (g) of this Section apply to the portion of the trust attributable to the person and without regard to:

1) the purpose for establishment of the trust;

2) whether the trustee has or exercises any discretion under the trust; or

3) whether there are any restrictions on distributions or use of distributions from the trust.

f) For revocable trusts, the Department shall:

1) treat the principal as an available resource;

2) treat as income payments from the trust that are made to or for the benefit of the person; and

3) treat any other payments from the trust as transfers of assets by the person (subject to the provisions of, and depending on the date of the payment, Section 120.387 or 120.388).

g) For irrevocable trusts, the Department shall:

1) treat as an available resource the amount of the trust from which payment to or for the benefit of the person could be made;

2) treat as income payments from the trust that are made to or for the benefit of the person;

3) treat any other payments from the trust as transfers of assets by the person (subject to the provisions of Section 120.387 or 120.388, as applicable); and

4) treat as a transfer of assets by the person the amount of the trust from which no payment could be made to the person under any circumstances (subject to the provisions of Section 120.387 or 120.388, as applicable). The date of the transfer is the date the trust was established or, if later, the date that payment to the person was foreclosed. The amount of the trust is determined by including any payments made from the trust after the date that payment to the person was foreclosed.

h) Trust Income. For married couples, income from trusts shall be attributed to each spouse as provided in the trust, unless:

1) payment of income is made solely to one spouse, in which case the income shall be attributed to that spouse;

2) payment of income is made to both spouses, in which case one-half of the income shall be attributed to each spouse; or

3) payment of income is made to either spouse, or both, and to another person or persons, in which case the income shall be attributed to each spouse in proportion to the spouse's interest, or, if payment is made to both spouses and no such interest is specified, one-half of the joint interest shall be attributed to each spouse.

i) Annuities are treated similar to trusts.

1) Revocable and assignable annuities are considered available resources.

2) Any portion of an annuity from which payment to or for the benefit of the person or the person's spouse could be made is an available resource. An annuity that may be surrendered to its issuing entity for a refund or payment of a specified amount or provides a lump-sum settlement option is an available resource valued at the amount of any such refund, surrender or settlement.

3) Income received from an annuity by an institutionalized person is considered non-exempt income. Income received by the community spouse of an institutionalized person is treated as available to the community spouse for the purpose of determining the community spouse income allowance under Section 120.379(e).

4) An annuity that fails to name the State of Illinois as a remainder beneficiary as required under Section 120.385(b) shall result in denial or termination of eligibility for long term care services.

j) The principal of a trust fund established under the Self Sufficiency Trust Fund Program (see 20 ILCS 1705/21.1) is an exempt resource.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 120.379 Provisions for the Prevention of Spousal Impoverishment

a) The provisions for the prevention of spousal impoverishment apply only to an institutionalized person (as defined in Section 120.388(c)) whose spouse resides in the community. For purposes of this Section, those persons shall be referred to as the institutionalized spouse and the community spouse.

b) Income. In determining the financial eligibility of an institutionalized spouse, only non-exempt income attributed to the institutionalized spouse shall be considered available. The following rebuttable presumptions shall apply in determining the income attributed to each spouse:

1) if payment of income is made solely in the name of one spouse, the income will be considered available only to that spouse;

2) if payment of income is made in the names of both spouses, one-half of the income shall be considered available to each spouse;

3) if payment of income is made in the names of either spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made to both spouses and no other interest is specified, one-half of the joint interest shall be considered available to each spouse);

4) if payment of income is made from a trust, the income shall be considered available to each spouse as provided under Section 120.347(h); and

5) if there is no trust or instrument establishing ownership, one-half of the income shall be considered available to the institutionalized spouse and one-half to the community spouse.

c) Resources. In determining the financial eligibility of an institutionalized spouse, the following shall apply:

1) At the beginning of a continuous period of institutionalization, the total value of resources owned by either or both spouses shall be computed.

2) Assessment. Upon the request of an institutionalized spouse, community spouse, or a representative of either, at the beginning of a continuous period of institutionalization, the Department shall conduct an assessment of the couple's resources for the purpose of determining the combined amount of nonexempt resources in which either spouse has an ownership interest. The person requesting the assessment shall be responsible for providing documentation and verification necessary for the Department to complete the assessment.

3) For purposes of this subsection (c), a continuous period of institutionalization is defined as at least 30 days of continuous institutional care. An initial assessment remains effective during that period if:

A) a resident of a long term care facility is discharged for a period of less than 30 days and then reenters the facility;

B) a resident of a long term care facility enters a hospital and then returns to the facility from the hospital;

C) a person discontinues receiving home and community-based services for a period of less than 30 days; or

D) a person discontinues receiving home and community-based services due to hospitalization and then is discharged and begins to receive home and community-based services.

4) At the time of an institutionalized spouse's application for medical assistance, all nonexempt resources held by either the institutionalized person, the community spouse, or both shall be considered available to the institutionalized spouse. From this amount may be deducted and transferred to the community spouse the Community Spouse Resource Allowance (CSRA), as provided under subsection (d) of this Section. The remaining amount shall be the total amount of resources considered available to the institutionalized spouse.

d) Transfer of Resources to the Community Spouse. From the amount of nonexempt resources considered available to the institutionalized spouse, as described in subsection (c)(4) of this Section, a transfer of resources is allowed by the institutionalized spouse to the community spouse or to another individual for the sole benefit (as defined in Section 120.388(m)(2)(B)) of the community spouse in an amount that does not exceed the CSRA. The CSRA is the difference between the amount of resources otherwise available to the community spouse and the greatest of:

1) the greater of the minimum amount permitted under section 1924(f)(2) of the Social Security Act (42 USC 1396r-5(f)(2)) or~~established annually by the US Department of Health and Human Services (DHHS) (as of January 1, 2011,~~ $109,560~~)~~;

2) the amount established through a fair hearing under subsection (f)(3) of this Section; or

3) the amount transferred under a court order against an institutionalized spouse for the support of the community spouse.

e) Deductions are allowed from an institutionalized spouse's post-eligibility income (pursuant to Section 120.61(d) and (e)) for a community spouse income allowance and a family allowance. The deductions are determined as follows:

1) Community Spouse Maintenance Allowance.

A) The amount of monthly income that may be deducted from the institutionalized spouse's post-eligibility income for the benefit of the community spouse is equal to the minimum monthly maintenance needs allowance (MMMNA) less the amount of monthly income otherwise available to the community spouse (as determined under subsection (b) of this Section. The amount established as the MMMNA is the greater of the minimum amount permitted under section 1924(d)(3) of the Social Security Act (42 USC 1396r-5(d)(3)) or~~(as of January 1, 2011,~~ $2,739 per month~~) shall be provided for calendar years after 2011 by DHHS~~.

B) The deduction is allowed only to the extent the income of the person is in fact contributed to the community spouse. However, the deduction for the community spouse income allowance shall not be less than the amount ordered by a court for support of the community spouse or the amount determined as the result of a fair hearing provided for under subsection (f) of this Section.

C) For purposes of this Section, all income of the institutionalized spouse that can be made available to the community spouse shall be made available before resources may be transferred in excess of the CSRA specified under subsection (d)(1) of this Section that will generate income to make up the difference between the MMMNA and the amount of income available to the community spouse.

2) Family Allowance. The amount of monthly income that may be deducted from the institutionalized spouse's post-eligibility income for the benefit of each family member is equal to one-third of the difference between the family maintenance needs standard (150% of the annual Federal Poverty Level for two persons) and any nonexempt income of the family member. Family members only include dependent children under age 21, dependent adult children, dependent parents or dependent siblings of either spouse who reside with the community spouse.

3) A deduction is also allowed from the institutionalized spouse's post-eligibility income for dependent children under age 21 who do not reside with the community spouse pursuant to Section 120.61(e)(5).

4) The term "dependent" has the meaning ascribed to a "qualified" person under 26 USC 152.

f) Fair Hearings. Either the institutionalized spouse or the community spouse may request a hearing (as described in 89 Ill. Adm. Code 104.1) under this Section for the following reasons:

1) either spouse is dissatisfied with a determination of:

A) the community spouse income allowance under subsection (e)(1) of this Section;

B) the amount of the monthly income treated as otherwise available to the community spouse (as applied under subsection (e)(1) of this Section);

C) the attribution of resources under subsection (c)(4) of this Section; or

D) the determination of the CSRA under subsection (d) of this Section.

2) Either spouse may request an increase in the MMMNA under subsection (e)(1). If either spouse establishes that, due to exceptional circumstances resulting in significant financial duress, the community spouse needs income above the level provided by the MMMNA, an amount adequate to provide that additional income shall be substituted. For purposes of this subsection (f)(2), significant financial distress means expenses that the community spouse incurs in excess of the income standard, including:

A) recurring or extraordinary medical expenses of the community spouse that are not covered by any third party resource, including insurance or the Medical Assistance Program;

B) amounts necessary to preserve, maintain or make major repairs to homestead property; or

C) amounts necessary to preserve an income producing resource, subject to the limitations on that property under Section

120.381(a)(3) and as long as the expense is reasonable in relation to the income produced by the resource.

3) Either spouse may request that an alternative CSRA be substituted for the standard CSRA calculated under subsection (d) of this Section if it can be established that the standard CSRA (in relation to the amount of income it generates) is inadequate to raise the community spouse's income to the MMMNA.

A) Before a substitute CSRA may be allocated under this subsection (f)(3), the amount of income attributed to the institutionalized spouse that may be transferred to the community spouse under subsection (e) of this Section shall first be considered available to raise the community spouse's income to the MMMNA.

B) If the sum of income otherwise available to the community spouse and income that may be transferred from the institutionalized spouse is insufficient to raise the community spouse's income to the MMMNA, then a substitute CSRA may be allowed. The amount the substitute CSRA may exceed the CSRA provided for under subsection (d) of this Section is limited to the amount of resources necessary to generate income to raise the community spouse's total income to the MMMNA.

C) In determining the amount of income that a substitute CSRA under this subsection (f)(3) may generate, the Department will use, for purposes of comparison, the cost to purchase an actuarially sound single premium life annuity producing monthly payments that, when added to the community spouse's total income, will be sufficient to raise the community spouse's income to, but not more than, the MMMNA. If resources are insufficient to purchase an annuity that will raise the community spouse's income to the MMMNA, the Department will measure the amount of an allowable increase in the CSRA by the cost to purchase an actuarially sound single premium life annuity producing monthly payments using available resources.

D) It is the requesting person's responsibility to provide the Department with an estimate from a reputable company of the cost to purchase the annuity described in subsection (f)(3)(C).

E) The Department may compare the estimate with available information on the cost of other single premium life annuities.

F) In calculating the amount of the community spouse's income after approval of a substitute CSRA, the Department shall deem the amount of the monthly annuity payments as being available to the community spouse, although it will not require the actual purchase of an annuity.

g) The appeal hearing described in subsection (d)(2) of this Section shall be held within 30 days after the date the appeal is filed.

h) A transfer of resources under subsection (d) of this Section from the institutionalized spouse to the community spouse shall be made as soon as practicable after the date of initial determination of eligibility and before the first regularly scheduled redetermination of eligibility, taking into account such time as may be necessary to obtain a court order under subsection (d)(3) of this Section. If a transfer of resources to a community spouse has not been made by the first scheduled redetermination and no petition for an order of spousal support is pending judicial review, the resources shall be considered available to the institutionalized spouse.

i) Assignment of Support Rights. The institutionalized spouse shall not be ineligible by reason of resources determined under subsection (c)(4) to be available for the cost of care when:

1) the institutionalized spouse has assigned to the State any rights to support from the community spouse (see Section 120.319);

2) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment, but the State has the right to bring a support proceeding against a community spouse without that assignment; or

3) the State determines that denial of eligibility would work an undue hardship (see Section 120.388(r)(1)).

j) If an institutionalized spouse or community spouse refuses to provide the Department the total value of assets, including income and resources, to the extent

either the institutionalized spouse or community spouse has ownership interest in them, that refusal may result in the institutionalized spouse being denied eligibility and continuing to remain ineligible for long term care based on failure to cooperate.

k) The Department may pursue any available legal process to enforce its right of assignment to support against the community spouse or any other responsible person pursuant to Section 120.319. ~~These processes may include, but shall not be limited to, the administrative support procedures provided under 89 Ill. Adm. Code 103.~~

1) The Department may seek support, for an institutionalized spouse who has assigned his or her right of support from his or her spouse to the State, from the resources and income available to the community spouse.

2) The Department may bring an action in the circuit court to establish support orders or itself establish administrative support orders by any means and procedures authorized under the Public Aid Code, as applicable, except that the standard and regulations for determining ability to support in Section 10-3 of the Public Aid Code shall not limit the amount of support that may be ordered.

3) Proceedings may be initiated to obtain support, or for the recovery of aid granted during the period support was not provided, or both, for the obtainment of support and the recovery of the aid provided. Proceedings for the recovery of aid may be taken separately or they may be consolidated with actions to obtain support. The proceedings may be brought in the name of the person or persons requiring support or may be brought in the name of the Department, as the case requires.

4) The orders for the payment of moneys for the support of the person shall be just and equitable and may direct suport payment for the periods the circumstances require, including support for a period before the date the order for support is entered. In no event shall the orders reduce the community spouse resource allowance below the level established in subsection (d) or an amount set after a fair hearing pursuant to subsection (f), whichever is greater, or reduce the monthly maintenance allowance for the community spouse below the level permitted pursuant to subsection (e).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 120.380 Resources

a) Unless otherwise specified and for purposes of this Part, the term "resource" (as defined in 42 USC 1382b, except subsection (a)(1) of that section, which excludes the home as a resource) means cash or any other personal or real property that a person owns and has the right, authority or power to liquidate.

b) A resource is considered available to pay for a person's own care when at the disposal of that person; when the person has a legal interest in a liquidated sum and has the legal ability to make the sum available for support, maintenance or medical care; or when the person has the lawful power to make the resource available or to cause the resource to be made available.

c) The value of nonexempt resources shall be considered in determining eligibility for any means-tested public benefit program administered by the Department, the Department of Human Services or the Department on Aging if eligibility is determined, in part, on the basis of resources as provided under this Section.

d) Determination of Resources.

1) In determining initial financial eligibility for medical assistance, the Department considers nonexempt verified resources available to a person as of the date of decision on the application for medical assistance. The date of verification (see Section 120.308(f)) may be prior to the date of decision. Resources applied to a spenddown obligation in a retroactive month (see Section 120.61(b)) shall not be treated as available in the determination of initial financial eligibility. Money considered as income for a month is not considered a resource for that same month. If income for a month is added to a bank account that month, the Department will subtract the amount of income from the bank balance to determine the resource level. Any income remaining in the following months is considered a resource.

2) An applicant for medical assistance may be eligible for up to 3 months prior to the date of application if the person would have been eligible for medical assistance at the time he or she received services if he or she had applied, regardless of whether the person is alive when the application for medical assistance is made. In determining financial eligibility for

retroactive months, the Department will consider the amount of income, ~~and~~ resources and exemptions available to a person as of the first day of each of the backdated months for which eligibility is sought. ~~Resources spent prior to the end of the month of application to purchase a Pre-paid Funeral/Burial Contract in compliance with Section 120.381(b), (c) or (d), to pay for incurred medical expenses or to pay legal fees up to $10,000 (which shall be adjusted annually for any increase in the Consumer Price Index), incurred in the month of application or in any of the three months prior to the month of application, that are related to the eligibility application for long term care assistance shall not be considered available.~~

3) In determining a person's spenddown obligation (see Section 120.384), the Department considers the amount of nonexempt resources available as of the date of decision, in the case of initial eligibility, and the first day of the month, in the case of retroactive eligibility, that are in excess of the applicable resource disregard (see Section 120.382).

e) Subject to subsection (c) of this Section and 89 Ill. Adm. Code 113.140, the entire equity value of jointly held resources shall be considered available in determining a person's eligibility for assistance, unless:

1) The resource is a joint income tax refund, in which case one-half of the refund is considered owned by each person; or

2) The person documents that he or she does not have access to the resource. Appropriate documents may include, but are not limited to, bank documents, signature cards, trust documents, divorce papers, and papers from court proceedings that show the person is legally unable to access the resource; or

3) The resource is held jointly with an individual eligible under any means-tested public health benefit program (other than the Supplemental Nutrition Assistance Program) administered by the Department, the Department of Human Services, or the Department on Aging; or

4) The person can document the amount of his or her legal interest in the resource and that such amount is less than the entire value of the resource, then the documented amount shall be considered. Appropriate documentation may include, but is not limited to, bank documents, trust

documents, signature cards, divorce papers, or court orders that show the person's legal interest is less than the entire value of the resource; or

5) The person documents that the resource or a portion of the resource is not owned by the person and the person's accessibility to the resource is changed (see subsections (e)(2) and (4) of this Section for documentation examples).

f) In determining the eligibility of a person for long term care services whose spouse resides in the community, all nonexempt resources owned by the institutionalized spouse, the community spouse, or both shall be considered available to the institutionalized spouse in determining his or her eligibility for medical assistance. From the total amount of such resources may be deducted a Community Spouse Resource Allowance as provided under Section 120.379.

g) Trusts established prior to August 11, 1993 shall be treated in the manner described in Section 120.346.

h) Trusts established on or after August 11, 1993 shall be treated in the manner described in Section 120.347.

i) The value of a life estate shall be determined at the time the life estate in the property is established and at the time the property (for example, resources) is liquidated. In determining the value of a life estate and remainder interest based on the value of the property at the time the life estate is established or of the amount received when the property is liquidated, the Department shall apply the values described in Section 120.Table A. The life estate and remainder interest are based on the age of the person at the time the life estate in the property is established and at the time the property is liquidated and the corresponding values described in Section 120.Table A.

j) A person's entrance fee in a continuing care retirement community or life care community (as those entities are described in 42 USC 1396r(c)(5)(B)) shall be considered an available resource to the extent that:

1) the person has the ability to use the entrance fee, or the contract provides that the entrance fee may be used to pay for care should other resources or income of the person be insufficient to pay for the care;

2) the person is eligible for a refund of any remaining entrance fee when the person dies or terminates the continuing care retirement community or life care community contract and leaves the community; and

3) the entrance fee does not confer an ownership interest in the continuing care retirement community or life care community.

k) Non-homestead real property, including homestead property that is no longer exempt (see Section 120.381(a)(1)), is considered an available resource unless:

1) the property is exempted as income-producing to the extent permitted under Section 120.381(a)(3)~~, except Section 120.381(a)(3) shall not apply to farmland property and personal property used in the income-producing operations related to the farmland (e.g., equipment and supplies, motor vehicles, tools, etc.)~~;

2) ownership of the property consists of a fractional interest of such a small value that a substantial loss to the person would occur if the property were sold;

3) the property has been listed for sale, in which case the property will not be counted as available for at least six months as long as the person continues to make a good faith effort to sell the property. This effort can be verified by evidence, including advertisements or documentation of the listing of the property with licensed real estate agents or brokers that includes a report of any offer from prospective buyers. The Department will review cases in which the property has not been sold after six months and will consider the following factors in determining if extensions of the initial six months are warranted:

A) the asking price is less than the fair market value of the property;

B) the property is marketed through a qualified realtor who is acting in good faith;

C) there is not a substantial market for the type of property being sold; and

D) the person has not rejected any reasonable offer to buy the property; or

4) the homestead property that is no longer exempt (see Section 120.381(a)(1)) is producing annual net income for the person in an amount that is not less than six percent of the person's equity value in the property. In determining net income, the Department shall recognize business expenses allowed for federal income tax purposes.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 120.381 Exempt Resources

a) The following resources are exempt from consideration in determining eligibility for medical assistance:

1) Homestead Property.

A) Homestead property is any property in which a person (and spouse, if any) has an ownership interest and that serves as the person's principal place of residence. This property includes the shelter in which a person resides, the adjoining land on which the shelter is located and related outbuildings.

B) If a person (and spouse, if any) moves out of his or her home without the intent to return, the home is no longer exempt because it is no longer the person's principal place of residence. If a person leaves his or her home to live in a long term care facility, the property is considered exempt, irrespective of the person's intent to return, as long as a spouse or dependent relative of the eligible person continues to live there. The person's equity in the former home is treated as an available resource effective with the first day of the month following the month it is no longer his or her principal place of residence.

C) Subject to federal approval, real property, including real property claimed as homestead, held in trust is not exempt unless the Department determines that the person's spouse, minor child or disabled child resides in the property.

2) Personal effects and household goods are exempt to the extent they are excluded under 20 CFR 416.1216.

3) Resources (for example, land, buildings, equipment and supplies or tools), including farmland property and personal property used in the income producing operations related to the farmland (for example, equipment and supplies, motor vehicles or tools) necessary for self-support up to $6,000 of the person's equity in the income producing property are exempt provided the property produces a net annual income of at least six percent of the excluded equity value of the property. The equity value in excess of $6,000 is not excluded. If the activity produces income that is less than six percent of the exempt equity due to reasons beyond the person's control (for example, the person's illness or crop failure) and there is a reasonable expectation that the property will again produce income equal to six percent of the equity value (for example, a medical prognosis that the person is expected to respond to treatment or that drought resistant corn will be planted), the equity value in the property up to $6,000 is exempt. If the person owns more than one piece of property and each produces income, each is looked at to determine if the six percent rule is met and then the amounts of the person's equity in all of those properties are totaled to see if the total equity is $6,000 or less. The total equity value of all properties that is exempt under this subsection is limited to $6,000.

4) Automobile.

A) Exclude one automobile, regardless of value, used by the client, spouse or other dependent if:

i) it is necessary for employment;

ii) it is necessary for the medical treatment of a specific or regular medical problem;

iii) it is modified for operation by, or transportation of, a handicapped person;

iv) it is necessary because of factors such as climate, terrain or distance to provide necessary transportation to perform essential daily activities; or

v) one vehicle for each spouse is exempt in determining the

amount allowed as the Community Spouse Resource Allowance (as described in Section 120.379(d)).

B) If not excluded in subsection (a)(4)(A) of this Section, one automobile is excluded to the extent its equity value does not exceed $4500. Any excess equity value is applied toward the applicable resource disregard (see Section 120.382).

C) For all other automobiles, apply the equity value toward the resource disregard (see 89 Ill. Adm. Code 113.142).

5) Life insurance policies with a total face value of $1,500 or less and all term life insurance policies. If the total face value exceeds $1,500, the cash surrender value must be counted as a resource.

6) For purposes of this Section, the term "equity value" refers to:

A) in the case of real property, the value described in Section 120.385(c); and

B) in the case of personal property, the price that an item can reasonably be expected to sell for on the open market in the particular geographic area involved, minus any encumbrances (as described in Section 120.385(c)(1)(C)).

b) Burial spaces that are intended for the use of the person, his or her spouse, or any other member of his or her immediate family are exempt. Immediate family is defined as a person's minor and adult children, including adopted children and stepchildren, a person's brothers, sisters, parents and adoptive parents, and the spouses of these individuals.

c) Funds that are set aside for the burial expenses of a person and his or her spouse in a bank account owned by the person that is clearly identified as a burial fund is exempt up to $1500. This amount is reduced by the face value of any excluded life insurance on the person and the amount of any funds held in an irrevocable trust or other irrevocable arrangement that is available for burial expenses per person.

d) Prepaid Funeral/Burial Contracts. Prepaid funeral/burial contracts are exempt to the following extent:

1) Funds in a revocable prepaid funeral/burial contract are exempt up to $1500, except that any portion of a contract that clearly represents the purchase of burial space, as that term is defined for purposes of the Supplemental Security Income program, is exempt regardless of value.

2) Funds~~Effective January 1, 2012, funds~~ in an irrevocable prepaid funeral/burial contract are exempt up to $5,874~~$10,000~~, except that any portion of a contract that clearly represents the purchase of burial space, as that term is defined for purposes of the Supplemental Security Income program, is exempt regardless of value~~which shall include the costs of both goods and services~~. This amount shall be adjusted annually for any increase in the Consumer Price Index. The amount exempted shall be limited to the price of the funeral goods and services to be provided upon death. The contract must provide a complete description of the funeral goods and services to be provided and the price of those goods and services. Any amount in the contract not so specified shall be treated as a transfer of assets for less than fair market value.

3) A prepaid, guaranteed price funeral/burial contract~~ up to $10,000, which shall include the costs of both goods and services and which shall be adjusted annually for any increase in the Consumer Price Index~~, funded by an irrevocable assignment of a person's life insurance policy to a trust, is exempt. The amount exempted shall be limited to the amount of the insurance benefit designated for the cost of the funeral goods and services to be provided upon the person's death. The contract must provide a complete description of the funeral goods and services to be provided and the price of those goods and services. Any amount in the contract not so specified shall be treated as a transfer of assets for less than fair market value. The trust must include a statement that, upon the death of the person, the State will receive all amounts remaining in the trust, including any remaining payable proceeds under the insurance policy up to an amount equal to the total medical assistance paid on behalf of the person. The trust is responsible for ensuring that the provider of funeral services under contract receives the proceeds of the policy when it provides the funeral goods and services specified under the contract. The irrevocable assignment of ownership of the insurance policy must be acknowledged by the insurance company.

e) Resources necessary for fulfillment of an approved plan for achieving self-support

under 42 CFR 416.1220.

f) Resources excluded by express provision of 20 CFR 416.1236 (2009).

g) *Donations or benefits from fund raisers held for a seriously ill client provided the client or a responsible relative of the client does not have control* (for example, not available to the client or the responsible relative) *over the donations or benefits or the disbursement of donations or benefits* [305 ILCS 5/5-2].

h) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under Public Law 101-201.

i) Money received from the Social Security Administration under a Plan to Achieve Self-Support (PASS) and held in a separate account.

j) Disaster relief payments provided by federal, State or local government or a disaster assistance organization.

k) The amount of earned income tax credit that the client receives as advance payment or as a refund of federal income tax.

l) For disabled persons who have lost eligibility under Section 120.510 and who are only requesting services other than those described in Section120.61(a) (except that subsection's reference to services provided through a Community Integrated Living Facility (CILA)), the following additional exemptions shall apply:

1) Retirement accounts that a person with a disability cannot access without penalty before the age of 59½ and medical savings accounts established pursuant to 26 USC 220; and

2) Up to $25,000 if the person owned assets of equal value when his or her eligibility under Section 120.510 ended.

m) The amount of damages recovered by a resident of a nursing home for any act that injures the resident pursuant to 210 ILCS 45/3-605.

n) Certain payments received under the American Recovery and Reinvestment Act of 2009.

1) Payments to World War II veterans who served in the Philippines and spouses of those veterans under Div. A, Title X, Sec. 1002 of P.L. 111-5.

2) Payments or reimbursements for Premium Assistance for COBRA Continuous Coverage under Div. B, Title III, Sec. 3001 of P.L. 111-5.

o) Certain payments received under the American Recovery and Reinvestment Act of 2009 are exempt as an asset the month of receipt and two months thereafter.

1) Making Work Pay Credit under Div. B, Title I, Sec. 1001 of P.L. 111-5.

2) Tax Credit for Certain Government Retirees under Div. B, Title II, Sec. 2202 of P.L. 111-5.

p) Economic Recovery Payments under the American Recovery and Reinvestment Act of 2009 under Div B, Title II, Sec. 2201 of P.L. 111-5 are exempt as an asset the month of receipt and nine months thereafter.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 120.385 Factors Affecting Eligibility for Long Term Care Services

a) For purposes of this Section, the terms "institutionalized persons" and "long term care services" shall have the meanings described in Section 120.388 of this Part. The terms "institutionalized spouse" and "community spouse" shall have the meanings described in Section 120.379(a) of this Part.

b) Disclosure of Annuity and Naming the State as Remainder Beneficiary.

1) Effective January 1, 2012, an application (or redetermination related to an application) for long term care services shall include a disclosure by an institutionalized person or his or her community spouse of any interest either or both may have in any annuity or similar financial instrument purchased, regardless of whether the annuity is irrevocable or is treated as an asset. The application or recertification form shall also include a statement that the State of Illinois becomes a remainder beneficiary under such an annuity or similar financial instrument to the extent that the State has provided medical assistance to the institutionalized person.

2) Failure of an institutionalized person, his or her community spouse, or his or her representative to disclose information or to name the State as a remainder beneficiary as provided for in subsection (b)(1) of this Section, or to disclose sufficient information regarding an annuity in order to establish eligibility for long term care services, shall result in denial or termination of the eligibility. Failure of an institutionalized person, his or her community spouse or his or her representative to disclose the information provided for in subsection (b)(1) of this Section, or to disclose sufficient information regarding an annuity in order to establish eligibility for medical assistance, may also result in denial or termination of eligibility for failure to cooperate under Section 120.308.

c) Home Equity Interest.

1) A~~Effective January 1, 2012, a~~ person shall not be eligible for long term care services if the person's equity interest in his or her homestead exceeds the minimum home equity allowed and increased annually under federal law (42 USC 1396p(f)(1)(C)), which, for calendar year 2012, was $525,000.~~$750,000.~~ This amount shall be increased, beginning with 2013, from year to year based on the percentage increase in the Consumer Price Index for all urban consumers (all items: United States city average), rounded to the nearest $1000. A person's equity interest in his or her homestead shall be determined as follows:

A) The current market value (CMV) of the property is the going price for which it can reasonably be expected to sell on the open market in the particular geographic area involved. The CMV of the property may be established by:

i) an appraisal report, no more than six months old at the time of the application for long term care services, completed by an appraiser who is licensed or otherwise meets the requirements under the Real Estate Appraiser Licensing Act [225 ILCS 458]; or

ii) a county real estate assessor's current estimate of the market value or fair cash value of the property used in determining the assessed value of a property; or

iii) any other reliable and verifiable indicia of the price that a property would bring in a sale between a willing buyer and seller under arms-length conditions unaffected by undue pressures;

B) Equity value (EV) is the CMV of the property minus any encumbrance on it;

C) An encumbrance is a legally binding debt against a specific property. Such a debt reduces the value of the encumbered property but does not necessarily prevent the property owner from transferring ownership (selling) to a third party. However, if the owner of encumbered property does sell, the creditor will nearly always require debt satisfaction from the proceeds of sale. Examples of encumbrances include mortgages, reverse mortgages, home equity loans or other debt that is secured by the property;

D) If property is held in any form of shared ownership (e.g., joint tenancy, tenancy in common or other similar arrangement) only the fractional interest in the property shall be considered in determining the person's equity in that property.

2) The eligibility of a person for long term care services shall not be affected under this subsection (c) if any of the following are lawfully residing in the person's home:

A) the person's spouse;

B) the person's child who is under age 21; or

C) the person's adult child who is blind (as described in Section 120.313 of this Part) or disabled (as described in Section 120.314 of this Part).

3) A person whose eligibility for long term care services is affected under this subsection (c) may request a hardship waiver. The process and basis for requesting such a waiver shall be the same as described in Section 120.388(r) of this Part. In determining whether a waiver should be granted, the Department shall also take into account:

A) the amount of time the person has resided in and owned the home;

B) whether a substantial increase in property values in the home's geographic area occurred after the person purchased the home;

C) whether the home comprises a substantial portion of the person's assets (as defined in Section 120.388(d)); and

D) whether the person intends to return to the home after a period of institutionalization or, if the person does not intend to return, whether the home can be sold after being listed for sale or, if it cannot be sold, can produce income commensurate with similar income producing properties in the geographic area.

4) For purposes of this Section the words, "homestead" and "home" have the same meaning as the term "homestead" in Section 120.381(a)(1)(A) of this Part.

d) Disclosure of Purchase of Promissory Notes, Loans and Mortgages and Assigning Interest to the State.

1) Effective January 1, 2012, an application (or redetermination related to an application) for long term care services shall include a disclosure by an institutionalized person or his or her community spouse of any purchase of a promissory note, loan or mortgage either or both may have made. The application or recertification form shall also include a statement that the instrument shall provide for the assignment to the State of Illinois, as of the date of death, of up to the total amount of medical assistance paid on behalf of the institutionalized person.

2) Failure of an institutionalized person, his or her community spouse, or his or her representative to disclose information or to assign interest to the State as provided for in subsection (d)(1) of this Section, or to disclose sufficient information regarding a promissory note, loan or mortgage in order to establish eligibility for long term care services, shall result in denial or termination of the eligibility. Failure of an institutionalized person, his or her community spouse, or his or her representative to disclose the information provided for in subsection (d)(1) of this Section, or to disclose sufficient information regarding a promissory note, loan or mortgage in order to establish eligibility for medical assistance, may also

result in denial or termination of eligibility for failure to cooperate under Section 120.308.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Children's Health Insurance Program

2) Code Citation: 89 Ill. Adm. Code 125

3)

Section Numbers:	Proposed Action:
125.110	Amendment
125.200	Amendment
125.205	Amendment
125.220	Amendment
125.225	Amendment
125.240	Amendment
125.245	Amendment
125.250	Amendment
125.260	Amendment
125.265	Repeal
125.300	Amendment
125.305	Amendment
125.320	Amendment
125.330	Amendment
125.340	Amendment
125.400	Amendment
125.420	Amendment
125.430	Amendment
125.440	Amendment
125.445	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Section 20 of the Children's Health Insurance Program Act [215 ILCS 106/20]

5) Complete Description of the Subjects and Issues Involved: Part 125 is being amended to comply with the reduction in FamilyCare eligibility mandated by PA 97-689, the SMART Act. Effective July 1, 2012, FamilyCare eligibility will be limited to individuals in families with income at or below 133 percent of the federal poverty level as established in 89 Ill. Adm. Code 120.32. The rulemaking also makes name changes to avoid inadvertent establishment of provisions, necessary to implement SMART that could be construed as conflicting with other parts of Title 89. For example, KidCare is changed to All Kids because the name KidCare is no longer used and Premium is changed to Premium Level 1 to avoid confusion with the Premium Level.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes, at 36 Ill. Reg. 10298, effective July 1, 2012 through June 30, 2013.

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

12) Time, Place, and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

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

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this Rulemaking was Summarized: January 2013

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 125
CHILDREN'S HEALTH INSURANCE PROGRAM

SUBPART A: GENERAL PROVISIONS

Section
125.100 General Description
125.110 Definitions

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

Section
125.200 Eligibility for Children's Health Insurance Program~~ and Family Care~~
125.205 Eligibility Exclusions and Terminations
125.220 Application Process
125.225 Presumptive Eligibility for Children
125.230 Determination of Monthly Countable Income
125.240 Eligibility Determination and Enrollment Process
125.245 Appeals
125.250 Annual Renewals
125.260 Adding Children to the Program and Changes in Participation
125.265 Adding Eligible Adults to the Program and Changes in Participation (Repealed)

SUBPART C: ALL KIDS~~KIDCARE/FAMILYCARE~~ HEALTH PLAN

Section
125.300 Covered Services
125.305 Service Exclusions
125.310 Copayments
125.320 Premium Requirements
125.330 Non-payment of Premium
125.340 Provider Reimbursement

SUBPART D: ALL KIDS~~KIDCARE/FAMILYCARE~~ REBATE

Section

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

125.400 Minimum Coverage Requirements
125.420 Coverage Verification Process
125.430 Provision of Policyholder's Social Security Number
125.440 All Kids~~KidCare/FamilyCare Insurance~~ Rebate
125.445 Rebate Overpayments

AUTHORITY: Implementing and authorized by the Children's Health Insurance Program Act [215 ILCS 106] and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 15706, effective August 12, 1998, for a maximum of 150 days; adopted at 23 Ill. Reg. 543, effective December 24, 1998; emergency amendment at 24 Ill. Reg. 4217, effective March 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11822, effective July 28, 2000; amended at 26 Ill. Reg. 12313, effective July 26, 2002; emergency amendment at 26 Ill. Reg. 15066, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 4723, effective February 25, 2003 emergency amendment at 27 Ill. Reg. 10807, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18623, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 7163, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13632, effective September 28, 2004; emergency amendment at 30 Ill. Reg. 535, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10328, effective May 26, 2006; emergency amendment at 36 Ill. Reg. 10298, effective July 1, 2012 through June 30, 2013; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 125.110 Definitions

For the purpose of this Part, the following terms shall be defined as follows:

"Act" means the Children's Health Insurance Program Act [215 ILCS 106].

"All Kids Health Plan" means the health benefits coverage containing cost sharing features that is available to eligible children under the Act and includes All Kids Share (no premium required) and All Kids Premium Level 1 (premium required).

"All Kids Rebate" means the program available under the Act for which the Department, on behalf on an eligible child, makes rebate payments to offset a family's cost of insuring that child under privately sponsored or employer-based health insurance.

"Caretaker Relative" means a relative as specified in this definition, with whom the child lives, who is providing care, supervision and a home for the child. Caretaker relatives include:

Blood or adoptive relatives within the fifth degree of kinship:

father and mother

brother and sister

grandmother and grandfather (including up to great-great-great)

uncle and aunt (including up to great-great)

nephew and niece (including up to great-great)

first cousin

first cousin once removed (child of first cousin)

second cousin (child of great-aunt/uncle)

Step relatives:

step-father and step-mother

step-brother and step-sister

A person who is or has been married to one of the above relatives.

"Department" means the Department of Healthcare and Family Services and any successor agencies.

"Eligible Adult" means an individual 19 years of age or older who is a parent or other caretaker relative and that individual's spouse if they reside together.

"Family" means the child applying for the Program and the following individuals who live with the child:

The child's parents

The spouse of the child's parent

Children under 19 years of age of the parents or the parent's spouse

The spouse of the child

The children of the child

If any of the above is pregnant, the unborn children.

"FamilyCare Premium" means ~~expansion of~~ coverage of parents and caretaker relatives in families with income above 150 percent of the Federal Poverty Level. The FamilyCare Premium program ceased effective June 30, 2012, but unpaid premiums may be relevant to children's eligibility under this Part~~to include eligible adults as permitted by the KidCare Parent Coverage Waiver~~.

"FamilyCare Rebate" means the program under which the Department, on behalf of an eligible adult, made rebate payments to offset a family's cost of insuring an individual under privately sponsored or employer-based health insurance. The FamilyCare Rebate program ceased effective June 30, 2012, but unreturned overpayments may be relevant to children's eligibility under this Part.

"Federal Poverty Level" means the federal poverty income guidelines as established by the federal Department of Health and Human Services and published in the Federal Register.

~~"KidCare/FamilyCare Health Plan" means the health benefits coverage containing cost sharing features that is available to eligible families under the Children's Health Insurance Program or the KidCare Parent Coverage Waiver, and includes KidCare/FamilyCare Share (no premium required) and KidCare/FamilyCare Premium (premium required).~~

~~"KidCare/FamilyCare Rebate" means the program under which the Department, on behalf of an eligible individual, makes rebate payments to offset a family's cost of insuring an individual under privately sponsored or employer-based health insurance.~~

"Medical Assistance" means health care benefits provided under Article V of the Illinois Public Aid Code.

"Program" means the program created under the Children's Health Insurance Program Act and this Part.

"Rebate" means the payment made by the Department under All Kids~~KidCare~~ Rebate.

"REV" means the Recipient Eligibility Verification system through which medical providers can obtain eligibility and claim status information electronically.

"Significant Health Insurance" means coverage that includes physician services and inpatient hospital services that would qualify for coverage under All Kids~~KidCare~~ Rebate.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

Section 125.200 Eligibility for Children's Health Insurance Program~~ and FamilyCare~~

A child ~~or eligible adult~~ may be eligible under the Program provided that all of the following eligibility criteria are met:

a) The child ~~or eligible adult~~ is not eligible for Medical Assistance, including 89 Ill. Adm. Code~~Section~~ 120~~.32~~.

b) The child is under 19 years of age.

c) Countable Income
~~1)~~A child is a member of a family whose monthly countable income is above 133 percent of the Federal Poverty Level and at or below 200 percent of the Federal Poverty Level.

~~2) An eligible adult is a member of a family whose monthly income is above 133 percent of the Federal Poverty Level and at or below 185 percent of the Federal Poverty Level.~~

d) The individual is a resident of the State of Illinois.

e) The individual is either a United States citizen or included in one of the following categories of non-citizens:

1) United States veterans honorably discharged or individuals on active military duty, or the spouse or unmarried dependent children of such persons.

2) Refugees under section~~Section~~ 207 of the Immigration and Nationality Act (8 USC 1157).

3) Asylees under section~~Section~~ 208 of the Immigration and Nationality Act.

4) Individuals for whom deportation has been withheld under section~~Section~~ 243(h) of the Immigration and Nationality Act.

5) Individuals granted conditional entry under section~~Section~~ 203(a)(7) of the Immigration and Nationality Act as in effect prior to April 1, 1980.

6) Individuals lawfully admitted for permanent residence under the Immigration and Nationality Act.

7) Parolees, for at least one year, under section~~Section~~ 212(d)(5) of the Immigration and Nationality Act.

8) Nationals of Cuba or Haiti.

9) Individuals identified by the Federal Office of Refugee Resettlement (ORR) as victims of trafficking.

10) Amerasians from Vietnam.

11) Members of the Hmong or Highland Laotian tribe when the tribe helped United States personnel by taking part in military or rescue operations.

12) American Indians born in Canada.

13) Individuals who are a spouse, widow or child of a United States citizen or a spouse or a child or a legal permanent resident (LPR) who have been battered or subjected to extreme cruelty by the United States citizen or LPR or a member of that relative's family who lived with them, who no longer live with the abuser or plan to live separately within one month after assistance and whose need for assistance is due, at least in part, to the abuse.

f) The individual's Social Security Number (SSN) is provided to the Department~~,~~ or, if it has not been issued or is not known, proof that application has been made for an SSN is provided.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.205 Eligibility Exclusions and Terminations

a) An individual shall not be determined eligible for coverage under the Program if:

1) The individual is an inmate of a public institution.

2) The individual is a patient in an institution for mental diseases.

3) The individual is a member of a family that is eligible for health benefits coverage under a State of Illinois health benefits plan on the basis of a member's employment with a public agency.

4) The individual is in categories described in Section 125.200(e)(6) or (e)(7), and the individual entered the United States on or after August 22, 1996; he or she shall not be eligible for five years beginning on the date the individual entered the United States.

b) An individual with significant health insurance can choose between All Kids ~~KidCare/FamilyCare~~ Health Plan and All Kids ~~KidCare/FamilyCare~~ Rebate.

c) Termination of an individual's coverage under the Program shall be initiated upon the occurrence of any of the following events:

1) A child becomes ineligible due to:

A) Losing his or her Illinois residency.

B) Attaining 19 years of age.

C) Becoming enrolled in Medical Assistance.

D) Meeting the provisions of subsection (a)(1) or (a)(3) of this Section.

~~2) An eligible adult becomes ineligible due to:~~

~~A) Losing his or her Illinois residency.~~

~~B) No child under 19 years of age remaining in the family.~~

~~C) Becoming enrolled in Medical Assistance.~~

~~D) Meeting the provisions of subsection (a)(1) or (a)(3) of this Section.~~

~~E) Income exceeding the range established in Section 125.200(b)(2).~~

2~~3~~) A child ~~or an eligible adult~~ becomes ineligible due to:

A) The required premiums under the All Kids~~KidCare/FamilyCare~~ Health Plan are not paid, as specified in Sections 125.320 and 125.330.

B) An individual enrolled in All Kids~~KidCare~~ Rebate is no longer being covered under a private or employer-based health insurance plan, except that an individual may change enrollment from All Kids~~KidCare/FamilyCare~~ Rebate to the All Kids~~KidCare/FamilyCare~~ Health Plan pursuant to Section 125.260(c).

C) The individual fails to report to the Department changes in

information that impacts upon the individual's eligibility for the Program.

D) The individual makes a request to the Department to terminate the coverage.

E) The Department determines that the individual is no longer eligible based on any other applicable State or federal law or regulation.

F) The Department determines that the individual failed to provide eligibility information that was truthful and accurate to the best of the applicant's knowledge and belief and that affected the eligibility determination.

G) There has been a Rebate overpayment and it has not been repaid to the Department according to terms established by the Department, which may include recoupment out of future Rebate payments or a payment plan.

H) The Department determines that the individual's eligibility was incorrectly determined.

I) The application was approved pending receipt of the individual's Social Security Number and it is not provided later when requested.

d) Following termination of an individual's coverage under the Program, the following action is required before the individual can be re-enrolled:

1) A new application must be completed and the individual must be determined otherwise eligible;

2) There must be full payment of premiums under the All Kids~~KidCare~~ Health Plan, for periods in which a premium was owed and not paid for the individual, including premiums owed when the individual was, for purposes of this Part, a member of another family;

3) Any overpayment of Rebates paid on behalf of the individual must be repaid to the Department. A Rebate overpayment shall be considered

repaid if the Department can recoup the overpayment out of future Rebate payments;

4) If the termination was the result of non-payment of premiums, the individual must be out of the Program for three months before re-enrollment; and

5) The first month's premium must be paid if the individual is eligible for All Kids~~KidCare/FamilyCare~~ Premium and the individual's family chose to have coverage under subsection (g) of this Section when the individual was initially enrolled in the Program or if there was an unpaid premium on the date the individual's previous case was canceled.

e) An application will be denied if any of the ~~eligible~~ adults in the family was responsible as a caretaker relative or was enrolled in FamilyCare Premium ~~eligible adult~~ during a period for which a premium under the Program was due to the Department and the premium remains unpaid at the time of application. Such an application shall be denied regardless of whether the individual for whom the premium remains unpaid is included in the application.

f) An application will be denied if any of the eligible adults in the family was enrolled in FamilyCare Rebate ~~received benefits~~ or was a caretaker relative of a child during a period for which a Rebate overpayment was received or was the payee of a Rebate overpayment and the overpayment has not been repaid to the Department. Such an application shall be denied regardless of whether the individual for whom the Rebate overpayment remains unpaid is included in the application.

g) A certificate of prior creditable coverage will be issued when the individual's coverage is terminated under the All Kids~~KidCare/FamilyCare~~ Health Plan.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.220 Application Process

a) Families will be able to apply for the Program using any of the following methods:

1) Submit the Department's application to an address specified by the

Department.

2) Apply at a Department of Human Services (DHS) local office.

3) Apply through an All Kids~~a KidCare~~ Application Agent that has an agreement in place with the Department.

4) Apply online at www.allkids.com~~www.kidcareillinois.com~~.

5) Additional methods that the Department establishes.

b) The application will meet all requirements found at 89 Ill. Adm. Code 110.10.

c) Families are obligated to provide truthful and accurate information for determining eligibility and to report promptly to the Department any change in non-financial information provided on the application or financial information for eligible adults.

d) The Department may cease accepting or processing applications if enrollment in the Program is closed due to limited appropriations.

e) The Department shall send a notification of its determination within 45 calendar days after the date the application was received.

f) The 45 calendar days may be extended when a decision cannot be reached because:

1) information necessary for a determination is available only from a third party and the party fails to respond or delays his or her response to the request for such information, or

2) additional information is needed from the applicant.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.225 Presumptive Eligibility for Children

a) A child younger than 19 years of age may be presumed eligible for an All Kids~~a KidCare~~ Health Plan under this Part if all of the

following apply:

1) an application for medical benefits has been made on behalf of the child;

2) the child is a resident of Illinois;

3) the child is not an inmate of a public institution as described in Section 125.205(a)(1);

4) the child is a member of a family whose monthly countable income, as stated on the application, is above 133 percent of the Federal Poverty Level and at or below 200 percent of the Federal Poverty Level;

5) the State employee who registers the application has no information that the child is not a U.S. citizen or a qualified non-citizen as described in 89 Ill. Adm. Code 125.200(e) or 89 Ill. Adm. Code 118.500; and

6) the child has not been presumed eligible under this Part 125 or 89 Ill. Adm. Code 118 or 120 within the past 12 months.

b) Entities qualified to make a determination of presumptive eligibility include State employees involved in enrolling children in programs under this Part 125 or 89 Ill. Adm. Code 118 or 120.

c) The presumptive eligibility period begins on the date of application.

d) The presumptive eligibility period ends on the date the State's determination of the child's eligibility under this Part 125 or 89 Ill. Adm. Code 118 or 120 is updated in the data system.

e) No copayment or premium requirements apply during the period of presumptive eligibility.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.240 Eligibility Determination and Enrollment Process

a) If the monthly countable income is at or below 133 percent of the Federal Poverty Level for the number of individuals in the family, the individual will be enrolled

in Medical Assistance, if otherwise determined eligible pursuant to 89 Ill. Adm. Code 120, Subpart H.

b) If the monthly countable income is above 133 percent and at or below 200 percent of the Federal Poverty Level for a child~~, or at or below 185 percent of the Federal Poverty Level for an adult,~~ for the number of individuals in the family, and all other eligibility requirements of this Part are met and enrollment is open, the individual will be enrolled in the Program.

c) For purposes of cost sharing, children~~families~~ in the All Kids~~KidCare/FamilyCare~~ Health Plan will be enrolled into either All Kids~~KidCare/FamilyCare~~ Share or All Kids~~KidCare/FamilyCare~~ Premium as follows:

1) If monthly countable income is above 133 percent and at or below 150 percent of the Federal Poverty Level for the number of individuals in the family, the individual will be enrolled in All Kids~~KidCare/FamilyCare~~ Share.

2) If monthly countable income is above 150 percent and at or below 200 percent of the Federal Poverty Level for the number of individuals in the family, a child will be enrolled in All Kids~~KidCare~~ Premium. ~~or, if monthly countable income is above 150 percent and at or below 185 percent of the Federal Poverty Level for the number of individuals in the family, an eligible adult will be enrolled in FamilyCare Premium.~~

d) Applicants will be notified, in writing, regarding the outcome of their eligibility determination.

e) Eligibility determinations for the Program made by the 15th~~fifteenth~~ day of the month will be effective the first day of the following month. Eligibility determinations for the Program made after the 15th~~fifteenth~~ day of the month will be effective no later than the first day of the second month following that determination. The duration of eligibility for the Program for children will be 12 months unless one of the events described in Section 125.205(c)(1) or (c)(3) occurs. The 12 months of eligibility will commence when the first child in a family is covered under the Program. Children added to the Program after the eligibility period begins will be eligible for the balance of the 12-month eligibility period.

f) Individuals determined to be eligible for the All Kids~~KidCare/FamilyCare~~ Health Plan may obtain coverage for a period prior to the date of application for the Program. This coverage shall be subject to the following:

1) The family must request the prior coverage for the individual within six months following the initial date of coverage under the All Kids~~KidCare/FamilyCare~~ Health Plan.

2) The prior coverage will be individual specific and will only be available the first time the individual is enrolled in the Program.

3) The prior coverage will begin with services rendered during the two weeks prior to the date the individual's application for the All Kids~~KidCare/FamilyCare~~ Health Plan was filed and will continue until the individual's coverage under the All Kids~~KidCare/FamilyCare~~ Health Plan is effective pursuant to subsection (e).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.245 Appeals

a) Any person who applies for or receives assistance under the Program shall have the right to appeal any of the following actions:

1) Refusal to accept an application.

2) Denial of an application or cancellation at the annual renewal, including denial based on failure to meet one or more of the eligibility requirements specified in this Part. If the denial or cancellation is not upheld on appeal, coverage under the Program shall be retroactive to the date the coverage would have commenced had the application or annual determination been approved. However, if the individual is eligible for All Kids~~KidCare/FamilyCare~~ Premium Level 1, it will be at the family's option whether coverage following a successful appeal shall be prospective only for the remainder of the 12-month period following application or retroactive to the date the coverage would have commenced had the application been approved. All premium and copayment requirements shall apply to the retroactive period.

3) Termination of coverage based on failure to continue to meet one or more of the eligibility requirements specified in this Part. If the termination is not upheld on appeal and benefits were not continued during the appeal, coverage under the Program shall be reinstated retroactive to the termination date. However, if an individual is eligible for All Kids~~KidCare/FamilyCare~~ Premium Level 1, it will be at the family's option whether coverage following a successful appeal shall be prospective only for the remainder of the 12-month period following application or retroactive to the date of termination. All premium and copayment requirements shall apply to any retroactive period.

4) Determination of the amount of the premium, Rebate, or copayments required. Coverage, Rebate amount and any premium or copayment requirements, as determined by the Department, shall remain in force during the appeal process.

b) In addition to the actions that are appealable under subsection (a) of this Section, individuals covered under the All Kids~~KidCare/FamilyCare~~ Health Plan shall have the right to appeal any of the following actions:

1) Termination of coverage due to non-payment of the required premium.

2) Denial of payment for a medical service or item that requires prior approval.

3) Decision granting prior approval for a lesser or different medical service or item than was originally requested.

c) The Department's decision to deny an application due to closing of enrollment for the Program shall not be appealable.

d) Individuals may initiate the appeal process by:

1) Filing a written, signed request for a hearing directed to the Department's Assistance Hearings Section;

2) Calling a toll free telephone number (800/435-0774, or as designated by the Department).

e) The request for a hearing may be filed by the individual affected by the action or by the individual's authorized representative.

f) For purposes of initiating the appeal process, a copy of a written, signed request for a hearing is considered the same as the original written, signed request.

g) The request for a hearing must be filed no later than 60 days after notice of the appealable action has been given.

h) If an appeal is initiated within 10~~ten~~ calendar days after the notice of intended Department action and the individual specifically requests that the benefits be continued, benefits shall be continued at the level in effect prior to the proposed action, pending the results of the fair hearing process. All copayment obligations, including premiums, must be met during the period.

i) The provisions of Subpart A of the Department's administrative rules at 89 Ill. Adm. Code 104, Practice in Administrative Hearings, shall govern the handling of appeals and the conduct of hearings under the Program.

j) An individual can, prior to a decision being rendered on the appeal, reapply for the Program.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.250 Annual Renewals

a) Eligibility shall be reviewed by the Department, or its authorized agent, at least annually following the process set forth in Sections 11-5.1 through 11-5.3 of the Public Aid Code.

~~b) Prior to the 12-month eligibility period ending, and in sufficient time for the Family to respond to the Department's request for information, the Department or its designee will send an annual renewal notice to the Family.~~

b~~c~~) Annual renewals shall be subject to all eligibility requirements set forth in Sections 125.200 and 125.205.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 125.260 Adding Children to the Program and Changes in Participation

a) Families may add eligible children to the Program during the 12-month eligibility period, without eligibility being reviewed by the Department. Coverage for children added shall be prospective from the effective date determined according to Section 125.240(e) and shall continue for the remainder of the family's original 12-month eligibility period and may also include any prior coverage established pursuant to Section 125.240(f).

b) Premium amounts under the All Kids~~KidCare~~ Health Plan and Rebates under All Kids~~KidCare~~ Rebate will be adjusted to reflect adding or removing a child from the Program.

c) A child who would otherwise be terminated from All Kids~~KidCare~~ Rebate because of losing private or employer-sponsored health insurance may change coverage to the All Kids~~KidCare~~ Health Plan without eligibility being reviewed by the Department if there is no unpaid Rebate overpayment. Coverage under the All Kids~~KidCare~~ Health Plan shall be prospective from the effective date determined according to Section 125.240(e) and shall continue for the remainder of the existing 12-month eligibility period. However, at the time of the change in coverage, a family may choose to have the All Kids~~KidCare~~ Share or Premium coverage retroactive to the first day of the first month following the last month of coverage under the private or employer sponsored insurance if the family refunds within 30 days after the Department's notice that the child's coverage has been changed to All Kids~~KidCare~~ Health Plan any Rebate payment received for a month in which there was no private or employer based insurance coverage, notwithstanding Section 125.445(c).

d) A child with significant health insurance may choose to change coverage from the All Kids~~KidCare~~ Health Plan to All Kids~~KidCare~~ Rebate without eligibility being reviewed by the Department if the family returns a Rebate form and there are no unpaid premiums owed to the Department. Coverage under All Kids~~KidCare~~ Rebate shall be prospective from the effective date determined according to Section 125.240(e), following receipt by the Department of a completed Rebate Form and shall continue for the remainder of the existing 12-month eligibility period.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.265 Adding Eligible Adults to the Program and Changes in Participation (Repealed)

~~a)~~ ~~Families may add eligible adults to the Program during the 12-month eligibility period if the family income meets the income levels as stated in Section 125.240. Coverage for the added eligible adult shall be prospective from the effective date determined according to Section 125.240(e) and may also include any prior coverage established pursuant to Section 125.240(f).~~

~~b)~~ ~~Premium amounts under the FamilyCare Health Plan and Rebates under FamilyCare Rebate will be adjusted to reflect adding or removing an eligible adult from the Program.~~

~~c)~~ ~~An eligible adult who would otherwise be terminated from FamilyCare Rebate because of losing private or employer-sponsored health insurance may change coverage to the FamilyCare Health Plan if there is no unpaid Rebate overpayment. Coverage under the FamilyCare Health Plan shall be prospective from the effective date determined according to Section 125.240(e). However, at the time of the change in coverage, a family may choose to have the FamilyCare Share or Premium coverage retroactive to the first day of the first month following the last month of coverage under the private or employer sponsored insurance if the family refunds, within 30 days after the Department's notice that the person's coverage has been changed to FamilyCare Health Plan, any Rebate payment received for a month in which there was no private or employer based insurance coverage, except as described in Section 125.445(c).~~

~~d)~~ ~~An eligible adult with significant health insurance may change coverage to FamilyCare Rebate if the family returns a Rebate form and there are no unpaid premiums owed to the Department. Coverage under FamilyCare Rebate shall be prospective from the effective date determined according to Section 125.240(e), following receipt by the Department of a completed Rebate Form.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

SUBPART C: ALL KIDS~~KIDCARE/FAMILYCARE~~ HEALTH PLAN

Section 125.300 Covered Services

~~a)~~For children covered under the All Kids~~KidCare~~ Health Plan, covered health care services

shall be the same covered services for children as described at 89 Ill. Adm. Code 140, 77 Ill. Adm. Code 2090, and 59 Ill. Adm. Code 132, except as provided in Section 125.305, and subject to appropriation and any applicable cost sharing requirements defined in Section 125.310 and Section 125.320.

~~b) For eligible adults covered under the FamilyCare Health Plan, covered health care services shall be the same covered services for adults as described at 89 Ill. Adm. Code 140, 77 Ill. Adm. Code 2090, and 59 Ill. Adm. Code 132, except as provided at Section 125.305, and subject to appropriation and any applicable cost sharing requirements defined in Section 125.310 and Section 125.320.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.305 Service Exclusions

The following health care services will not be covered under the All Kids~~KidCare/FamilyCare~~ Health Plan:

a) Services provided only through a waiver approved under section~~Section~~ 1915(c) of the Social Security Act (42 USC 1396n(c)).

b) Abortion services.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.320 Premium Requirements

a) Families with individuals enrolled in All Kids~~KidCare/FamilyCare~~ Premium pursuant to Section 125.240(c) must pay the premiums established by this Section.

b) The premium amounts are $15 for one individual, $25 for two individuals, $30 for three individuals, $35 for four individuals, and $40 for five or more individuals.

c) Premiums are billed by and payable to the Department, or its authorized agent, on a monthly basis.

d) The premium due date will be 26 days after the fifth day of the calendar month preceding the month of coverage.

e) The premium will not change during the eligibility period, unless the family adds or removes individuals from the coverage.

f) No premiums shall be charged to families with an enrolled individual who is an American Indian or Alaska Native.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.330 Non-payment of Premium

a) All Kids~~KidCare/FamilyCare~~ Health Plan participants will have a grace period through the end of the month following the coverage month to pay the premium.

b) Failure to pay the full monthly premium by the last day of the grace period will result in termination of coverage.

c) Partial premium payments will not be refunded.

d) Collection action will be initiated by the Department to collect unpaid premiums.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.340 Provider Reimbursement

a) Providers under this Part shall be subject to approval by the Department to provide health care under the Illinois Public Aid Code.

b) Provider participation under this Part shall be voluntary.

c) Providers under this Part shall be reimbursed in accordance with the established rates of the Department or other appropriate State agency.

d) In addition to reimbursements received from the Department, providers may retain copayments defined in Section 125.310.

e) Providers under this Part shall be prohibited from billing families covered under the All Kids~~KidCare/FamilyCare~~ Health Plan any difference between the charge amount and the amount paid by the Department, except for copayments as

specified in Section 125.310.

f) Providers shall be responsible for refunding to the family copayments collected in excess of the amounts permitted by this Part.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART D: ALL KIDS~~KIDCARE/FAMILYCARE~~ REBATE

Section 125.400 Minimum Coverage Requirements

For an eligible individual to participate in All Kids~~KidCare/FamilyCare~~ Rebate, the eligible individual must be covered by an insurance plan that offers comprehensive major medical coverage providing benefits for physician services and hospital inpatient services.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.420 Coverage Verification Process

a) All applications for participation in All Kids~~KidCare/FamilyCare~~ Rebate must be accompanied by the Department's Insurance Rebate Form.

b) Verification of insurance coverage for the previous coverage period will be required at the annual renewal of All Kids~~KidCare/FamilyCare~~ Rebate.

c) The Department, or its authorized agent, may verify insurance coverage for participants under All Kids~~KidCare/FamilyCare~~ Rebate.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.430 Provision of Policyholder's Social Security Number

For an eligible individual to participate in All Kids~~KidCare/FamilyCare~~ Rebate, the policyholder's valid Social Security Number must be provided.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.440 All Kids~~KidCare/FamilyCare Insurance~~ Rebate

a) The Rebate will be paid to the individual policyholder insuring the individual.

b) The Department will issue Rebates on a monthly basis.

c) The total dollar amount of the Rebate paid by the Department per individual per month shall be the lesser of:

1) The maximum monthly amount set by the Department calculated in accordance with the restrictions in 215 ILCS 106/25 and available appropriations, or

2) The policyholder's monthly portion of the premium paid for coverage of individuals enrolled under All Kids~~KidCare/FamilyCare~~ Rebate.

d) The Department shall set the amount of the Rebate, described in subsection (c) of this Section, prospectively.

e) To be eligible for payment, a Rebate must equal at least one dollar.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.445 Rebate Overpayments

a) For purposes of this Part, a Rebate overpayment occurs in any of the following circumstances:

1) the monthly Rebate paid was higher than the policyholder's portion of the premium for the individuals enrolled in All Kids~~KidCare/FamilyCare~~ Rebate;

2) the monthly Rebate paid per individual was higher than the maximum monthly amount set by the Department pursuant to Section 125.440(c)(1);

3) the Rebate was paid for an individual who was incorrectly enrolled in All Kids~~KidCare/FamilyCare~~ Rebate due to inaccurate or untruthful information provided on the application;

4) the Rebate was paid for a period during which the individual was not covered by private or employer-based insurance meeting the requirements

of Section 125.400; or

5) the Rebate was paid for an eligible adult for whom an increase in income was not reported within 10~~ten~~ days after the change and the family's income exceeded the upper limit set at Section 125.200(c)(2).

b) Collection action will be initiated by the Department to collect Rebate overpayments.

c) In cases in which~~where~~ the family notified the Department of the loss of insurance of any enrolled individual or the increase of income with respect to an eligible adult within 10~~ten~~ days after the change but past the date when the Department was able to stop issuance or adjust the amount of the next Rebate, the relevant portion of the Rebate is not an overpayment.

d) In cases in which~~where~~ an individual is covered by private or employer-based insurance (regardless of whether the coverage meets the requirements of Section 125.400) and, due to Department error, Department of Human Services error or inaccurate information from an employer or other third party, an individual is enrolled in Rebate that should not have been or a Rebate payment is higher than it would have been if properly calculated based on accurate information, no overpayment occurs, provided the amount sent in any month does not exceed the maximum monthly amount set by the Department pursuant to Section 125.440(c)(1).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Hospital Services

2) Code Citation: 89 Ill. Adm. Code 148

3)

Section Numbers:	Proposed Action:
148.70	Amendment
148.117	Amendment
148.126	Amendment
148.140	Amendment
148.240	Amendment
148.285	Repeal
148.295	Amendment
148.458	Amendment
148.510	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These administrative rules are authorized by the SMART Act (PA 97-689) that mandates adjustments to co-pays and any rate of reimbursement for services or other payments or alteration of any methodologies authorized by the Public Aid Code to reduce any rate of reimbursement for services or other payments.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes, at 36 Ill. Reg. 10326, effective July 1, 2012 through June 30, 2013.

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? Yes

Section Number:	Proposed Action:	Illinois Register Citation:
148.70	Amendment	36 Ill. Reg. 8117; June 1, 2012

11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

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

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded hospital providers

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this Rulemaking was Summarized: This rulemaking was not anticipated by the Department when the most recent regulatory agendas were published.

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148
HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section
148.80 Organ Transplants Services Covered Under Medicaid (Repealed)
148.82 Organ Transplant Services
148.85 Supplemental Tertiary Care Adjustment Payments
148.90 Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments
148.95 Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments
148.100 Outpatient Rural Hospital Adjustment Payments
148.103 Outpatient Service Adjustment Payments
148.105 Psychiatric Adjustment Payments
148.110 Psychiatric Base Rate Adjustment Payments
148.112 High Volume Adjustment Payments
148.115 Rural Adjustment Payments
148.117 Outpatient Assistance Adjustment Payments
148.120 Disproportionate Share Hospital (DSH) Adjustments
148.122 Medicaid Percentage Adjustments
148.126 Safety Net Adjustment Payments
148.130 Outlier Adjustments for Exceptionally Costly Stays
148.140 Hospital Outpatient and Clinic Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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 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
148.285 Excellence in Academic Medicine Payments (Repealed)
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
148.402 Medicaid Eligibility Payments (Repealed)
148.404 Medicaid High Volume Adjustment Payments (Repealed)
148.406 Intensive Care Adjustment Payments (Repealed)
148.408 Trauma Center Adjustment Payments (Repealed)
148.410 Psychiatric Rate Adjustment Payments (Repealed)
148.412 Rehabilitation Adjustment Payments (Repealed)
148.414 Supplemental Tertiary Care Adjustment Payments (Repealed)
148.416 Crossover Percentage Adjustment Payments (Repealed)
148.418 Long Term Acute Care Hospital Adjustment Payments (Repealed)
148.420 Obstetrical Care Adjustment Payments (Repealed)
148.422 Outpatient Access Payments (Repealed)
148.424 Outpatient Utilization Payments (Repealed)
148.426 Outpatient Complexity of Care Adjustment Payments (Repealed)
148.428 Rehabilitation Hospital Adjustment Payments (Repealed)
148.430 Perinatal Outpatient Adjustment Payments (Repealed)
148.432 Supplemental Psychiatric Adjustment Payments (Repealed)
148.434 Outpatient Community Access Adjustment Payments (Repealed)
148.440 High Volume Adjustment Payments
148.442 Inpatient Services Adjustment Payments
148.444 Capital Needs Payments
148.446 Obstetrical Care Payments
148.448 Trauma Care Payments
148.450 Supplemental Tertiary Care Payments
148.452 Crossover Care Payments
148.454 Magnet Hospital Payments
148.456 Ambulatory Procedure Listing Increase Payments
148.458 General Provisions
148.460 Catastrophic Relief Payments
148.462 Hospital Medicaid Stimulus Payments

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section
148.500 Definitions
148.510 Reimbursement

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

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

SUBPART E: INSTITUTION FOR MENTAL DISEASES PROVISIONS FOR HOSPITALS

Section
148.700 General Provisions

SUBPART F: EMERGENCY PSYCHIATRIC DEMONSTRATION PROGRAM

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

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 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, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective

January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; emergency expired September 6, 2006; amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006; emergency amendment at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 1997, effective January 15, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 5596, effective April 1, 2007; amended at 31 Ill. Reg. 8123, effective May 30, 2007; amended at 31 Ill. Reg. 8508, effective June 1, 2007; emergency amendment at 31 Ill. Reg. 10137, effective July 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11688, effective August 1, 2007; amended at 31 Ill. Reg. 14792, effective October 22, 2007; amended at 32 Ill. Reg. 312, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 518, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 2993, effective February 16, 2008, for a maximum of 150 days; amended at 32 Ill.

Reg. 8718, effective May 29, 2008; amended at 32 Ill. Reg. 9945, effective June 26, 2008; emergency amendment at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 33 Ill. Reg. 501, effective December 30, 2008; peremptory amendment at 33 Ill. Reg. 1538, effective December 30, 2008; emergency amendment at 33 Ill. Reg. 5821, effective April 1, 2009, for a maximum of 150 days; emergency expired August 28, 2009; amended at 33 Ill. Reg. 13246, effective September 8, 2009; emergency amendment at 34 Ill. Reg. 15856, effective October 1, 2010, for a maximum of 150 days; emergency expired February 27, 2011; amended at 34 Ill. Reg. 17737, effective November 8, 2010; amended at 35 Ill. Reg. 420, effective December 27, 2010; amended at 35 Ill. Reg. 10033, effective June 15, 2011; amended at 35 Ill. Reg. 16572, effective October 1, 2011; emergency amendment at 36 Ill. Reg. 10326, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 148.70(g) suspended at 36 Ill. Reg. 13737 and emergency amendment to Section 148.140(b)(1)(F) suspended at 36 Ill. Reg. 13739, effective August 14, 2012; suspension withdrawn from Section 148.140(b)(1)(F) at 36 Ill. Reg. 14530, September 11, 2012; emergency amendment to Sections 148.140(b) and 148.190(a)(2) in response to Joint Committee on Administrative Rules action at 36 Ill. Reg. 14851, effective September 21, 2012 through June 30, 2013; suspension withdrawn from Section 148.70(g) at 36 Ill. Reg. 18989, December 11, 2012; emergency amendment to Section 148.70(g) in response to Joint Committee on Administrative Rules action at 36 Ill. Reg. 18976, effective December 12, 2012 through June 30, 2013; amended at 37 Ill. Reg. 402, effective December 27, 2012; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 148.70 Limitation On Hospital Services

a) Payment for inpatient hospital care in general and specialty hospitals, including psychiatric hospitals, shall be made only when it is recommended by a qualified physician, and the care is essential as determined by the appropriate utilization review authority. For hospitals or distinct part units reimbursed on a per diem basis under Sections 148.160 through 148.170 and 148.250 through 148.300, payment shall not exceed the number of days approved for the recipient's care by the appropriate utilization review authority (see Section 148.240). If Medicare benefits are not paid because of non-approval by the utilization review authority, payment shall not be made on behalf of the Department.

b) For hospitals or distinct part units reimbursed on a per case basis, payment for inpatient hospital services shall be made in accordance with 89 Ill. Adm. Code Part 149.

c) For hospitals, or distinct part units reimbursed on a per diem basis, under Sections 148.160 through 148.170 and 148.250 through 148.300, payment for inpatient hospital services shall be made based on calendar days. The day of admission shall be counted. The day of discharge shall not be counted. An admission with discharge on the same day shall be counted as one day. If a recipient is admitted, discharged and re-admitted on the same day, only one day shall be counted.

d) In obstetrical cases, payment for services to both the mother and the newborn child shall be made at one per diem rate, or one per case rate, whichever is applicable. Only in instances in which the medical condition of the newborn, as certified by the utilization review authority, necessitates care in other than the newborn nursery, shall payment be made in the child's name separately.

e) Payment for inpatient psychiatric hospital care in a psychiatric hospital, as defined in 89 Ill. Adm. Code 149.50(c)(1), shall be made only when such services have been provided in accordance with federal regulations at 42 CFR 441, subparts~~Subparts~~ C and D.

f) Payment for transplantation costs (with the exception of kidney and cornea transplants), including organ acquisition costs, shall be made only when provided by an approved transplantation center as described in Section 148.82. Payment for kidney and cornea transplantation costs does not require enrollment as an approved transplantation center and is only provided to hospitals reimbursed on a per case basis in accordance with 89 Ill. Adm. Code 149.

g) Effective with inpatient hospital admissions on or after July 1, 2012, the Department shall reduce the payment for a claim that indicates the occurrence of a provider preventable condition during the admission as specified in this subsection (g).

1) Until such time as the All Patient Refined Diagnosis Related Groups (APR-DRG) is implemented by the Department in rule, as authorized by Section 14-11 of the Public Aid Code, the Department shall reduce each claim that indicates the occurrence of a health care acquired condition (HAC) by $900.

2) After the APR-DRG is implemented by the Department in rule, as authorized by Section 14-11 of the Public Aid Code, the Department shall

reduce each claim by the amount that the payment on the claim is increased directly due to the occurrence of and treatment for the HAC.

3) The Department shall not pay for services related to Other Provider Preventable Conditions (OPPCs).

4) For HACs, hospitals shall code inpatient claims with a Present on Admission (POA) indicator for principal and secondary diagnosis codes billed. For OPPCs, hospitals shall submit claims to report these incidents and will be instructed to populate the inpatient claims with specific supplementary diagnosis coding.

5) Definitions. As used in this subsection (g), the following terms are defined as follows:

"Provider Preventable Condition" means a health care acquired condition as defined under the federal Medicaid regulation found at 42 CFR 447.26 (2012) or an Other Provider Preventable Condition.

"Other Provider Preventable Condition" means a wrong surgical or other invasive procedure performed on a patient, a surgical or other invasive procedure performed on the wrong body part, or a surgical procedure or other invasive procedure performed on the wrong patient.

h) Payment for caesarean sections shall be at the normal vaginal delivery rate unless a caesarean section is medically necessary.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.117 Outpatient Assistance Adjustment Payments

a) Qualifying Criteria. Outpatient Assistance Adjustment Payments, as described in subsection (b) of this Section, shall be made to Illinois hospitals meeting one of the criteria identified in this subsection (a):

1) A hospital that qualifies for Disproportionate Share Adjustment Payments for rate year 2007, as defined in Section 148.120, has an emergency care percentage greater than 70% and has provided greater than 10,500

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

2) A general acute care hospital that qualifies for Disproportionate Share Adjustment Payments for rate year 2007, as defined in Section 148.120, has an emergency care percentage greater than 85%.

3) A general acute care hospital that does not qualify for Medicaid Percentage Adjustment Payments for rate year 2007, as defined in Section 148.122, located in Cook County, outside the City of Chicago, has an emergency care percentage greater than 63%, has provided more than 10,750 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year and has provided more than 325 Medicaid surgical group outpatient ambulatory procedure listing services in the outpatient assistance base year.

4) A general acute care hospital located outside of Cook County that qualifies for Medicaid Percentage Adjustment Payments for rate year 2007 as defined in Section 148.122, is a trauma center recognized by the Illinois Department of Public Health (DPH) as of July 1, 2006, has an emergency care percentage greater than 58%, and has provided more than 1,000 Medicaid Non-emergency/Screening outpatient ambulatory procedure listing services in the outpatient assistance base year.

5) A hospital that has an MIUR of greater than 50% and an emergency care percentage greater than 80%, and that provided more than 6,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

6) A hospital that has an MIUR of greater than 70% and an emergency care percentage greater than 90%.

7) A general acute care hospital, not located in Cook County, that is not a trauma center recognized by DPH as of July 1, 2006 and did not qualify for Medicaid Percentage Adjustment payments for rate year 2007, as defined in Section 148.122, has an MIUR of greater than 25% and an emergency care percentage greater than 50%, and that provided more than 8,500 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

8) A general acute care hospital, not located in Cook County, that is a Level I trauma center recognized by DPH as of July 1, 2006, has an emergency care percentage greater than 50%, and provided more than 16,000 Medicaid outpatient ambulatory procedure listing services, including more than 1,000 non-emergency screening outpatient ambulatory procedure listing services, in the outpatient assistance base year.

9) A general acute care hospital, not located in Cook County, that qualified for Medicaid Percentage Adjustment payments for rate year 2007, as defined in Section 148.122, has an emergency care percentage greater than 55%, and provided more than 12,000 Medicaid outpatient ambulatory procedure listing services, including more than 600 surgical group outpatient ambulatory procedure listing services and 7,000 emergency services in the outpatient assistance base year.

10) A general acute care hospital that has an emergency care percentage greater than 75% and provided more than 15,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

11) A rural hospital that has an MIUR of greater than 40% and provided more than 16,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

12) A general acute care hospital, not located in Cook County, that is a trauma center recognized by DPH as of July 1, 2006, had more than 500 licensed beds in calendar year 2005, and provided more than 11,000 Medicaid outpatient ambulatory procedure listing services, including more than 950 surgical group outpatient ambulatory procedure listing services, in the outpatient assistance base year.

13) A general acute care hospital located outside of Illinois that provided more than 300 high tech diagnostic Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

14) A general acute care hospital is recognized as a Level I trauma center by DPH on the first day of the OAAP rate period, has Emergency Level I services greater than 2,000, Emergency Level II services greater than

8,000, and greater than 19,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

b) Outpatient Assistance Adjustment Payments

1) For hospitals qualifying under subsection (a)(1), the rate is $139.00.

2) For hospitals qualifying under subsection (a)(2), the rate is $850.00.

3) For hospitals qualifying under subsection (a)(3), the rate is $425.00.

4) For hospitals qualifying under subsection (a)(4), the rate is $665.00 through December 31, 2014~~June 30, 2012~~. For dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $375.00.

5) For hospitals qualifying under subsection (a)(5), the rate is $250.00.

6) For hospitals qualifying under subsection (a)(6), the rate is $336.25.

7) For hospitals qualifying under subsection (a)(7), the rate is $110.00

8) For hospitals qualifying under subsection (a)(8), the rate is $200.00.

9) For hospitals qualifying under subsection (a)(9), the rate is $128.50 through June 30, 2010. For dates of service on or after July 1, 2010 through December 31, 2014~~June 30, 2012~~, this rate shall be increased by $74.00, to $202.50. For dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $48.50.

10) For hospitals qualifying under subsection (a)(10), the rate is $135.00. For dates of service on or after July 1, 2010 through December 31, 2014~~June 30, 2012~~, this rate shall be increased by $70.00, to $205.00. For dates of service on or after January 1, 2015, the rate is $135.00.

11) For hospitals qualifying under subsection (a)(11), the rate is $65.00.

12) For hospitals qualifying under subsection (a)(12), the rate is $90.00.

13) For hospitals qualifying under subsection (a)(13) that have an emergency care percentage greater than 19% but less than 25%, the rate is $141.00. For hospitals qualifying under subsection (a)(13) that have an emergency care percentage greater than 25%, the rate is $494.00.

14) For hospitals qualifying under subsection (a)(14), the rate is $47.00 for dates of service on or after July 1, 2010 through December 31, 2014~~June 30, 2012~~. For dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $0.00.

c) Payment to a Qualifying Hospital

1) The total annual payments to a qualifying hospital shall be the product of the hospital's rate multiplied by the Medicaid outpatient ambulatory procedure listing services in the outpatient assistance adjustment base year.

2) For the outpatient assistance adjustment period for fiscal year 2010 and after, total payments will equal the amount determined using the methodologies described in subsection (c)(1) of this Section and shall be paid to the hospital, at least, on a quarterly basis.

3) Payments described in this Section are subject to federal approval.

d) Definitions

1) "Emergency care percentage" means a fraction, the numerator of which is the total Group 3 ambulatory procedure listing services as described in Section 148.140(b)(1)(C), excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2005 contained in the Department's data base adjudicated through June 30, 2006, and the denominator of which is the total ambulatory procedure listing services as described in Section 148.140(b)(1), excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2005 contained in the Department's data base adjudicated through June 30, 2006.

2) "General acute care hospital" is a hospital that does not meet the definition of a hospital contained in 89 Ill. Adm. Code 149.50(c).

3) "Outpatient Ambulatory Procedure Listing Payments" means, for a given hospital, the sum of payments for ambulatory procedure listing services as described in Section 148.140(b)(1), excluding payments for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.

4) "Outpatient assistance year" means, beginning January 1, 2007, the 6-month period beginning on January 1, 2007 and ending June 30, 2007, and beginning July 1, 2007, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

5) "Outpatient assistance base period" means the 12-month period beginning on July 1, 2004 and ending June 30, 2005.

6) "Surgical group outpatient ambulatory procedure listing services" means, for a given hospital, the sum of ambulatory procedure listing services as described in Section 148.140(b)(1)(A), excluding services for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.

7) "Non-emergency/screening outpatient ambulatory procedure listing services" means, for a given hospital, the sum of ambulatory procedure listing services as described in Section 148.140(b)(1)(C)(iii), excluding services for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.

8) "High tech diagnostic Medicaid outpatient ambulatory procedure listing services" means, for a given hospital, the sum of ambulatory procedure listing services described in Section 148.140(b)(1)(B)(ii), excluding services for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's

paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.

e) Payment Limitations: In order to be eligible for any new payment or rate increase under this Section that would otherwise become effective for dates of service on or after July 1, 2010, a hospital located in a geographic area of the State in which the Department mandates some or all of the beneficiaries of the Medical Assistance Program residing in the area to enroll in a Care Coordination program as defined in 305 ILCS 5/5-30 must be a Coordinated Care Participating Hospital as defined in Section 148.295(g)(5). This payment limitation takes effect six months after the Department begins mandatory enrollment in the geographic area.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 148.126 Safety Net Adjustment Payments

a) Qualifying criteria: Safety net adjustment payments shall be made to a qualifying hospital, as defined in this subsection (a), unless the hospital does not provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on or after July 1, 2006, but did provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on January 1, 2006. A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it meets one of the following criteria:

1) The hospital has, as provided in subsection (e)(6) of this Section, an MIUR equal to or greater than 40 percent.

2) The hospital has the highest number of obstetrical care days in the safety net hospital base year.

3) The hospital is, as of October 1, 2001, a sole community hospital, as defined by the United States Department of Health and Human Services (42 CFR 412.92).

4) The hospital is, as of October 1, 2001, a rural hospital, as described in Section 148.25(g)(3), that meets all of the following criteria:

A) Has an MIUR greater than 33 percent.

B) Is designated a perinatal level two center by the Illinois Department of Public Health.

C) Has fewer than 125 licensed beds.

5) The hospital is a rural hospital, as described in Section 148.25(g)(3).

6) The hospital meets all of the following criteria:

A) Has an MIUR greater than 30 percent.

B) Had an occupancy rate greater than 80 percent in the safety net hospital base year.

C) Provided greater than 15,000 total days in the safety net hospital base year.

7) The hospital meets all of the following criteria:

A) Does not already qualify under subsections (a)(1) through (a)(6) of this Section.

B) Has an MIUR greater than 25 percent.

C) Had an occupancy rate greater than 68 percent in the safety net hospital base year.

D) Provided greater than 12,000 total days in the safety net hospital base year.

8) The hospital meets all of the following criteria in the safety net base year:

A) Is a rural hospital, as described in Section 148.25(g)(3).

B) Has an MIUR greater than 18 percent.

C) Has a combined MIUR greater than 45 percent.

D) Has licensed beds less than or equal to 60.

E) Provided greater than 400 total days.

F) Provided fewer than 125 obstetrical care days.

9) The hospital meets all of the following criteria in the safety net base year:

A) Is a psychiatric hospital, as described in 89 Ill. Adm. Code 149.50(c)(1).

B) Has licensed beds greater than 120.

C) Has an average length of stay less than ten days.

10) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(9) of this Section.

B) Has an MIUR greater than 17 percent.

C) Has licensed beds greater than 450.

D) Has an average length of stay less than four days.

11) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(10) of this Section.

B) Has an MIUR greater than 21 percent.

C) Has licensed beds greater than 350.

D) Has an average length of stay less than 3.15 days.

12) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(11) of this Section.

B) Has an MIUR greater than 34 percent.

C) Has licensed beds greater than 350.

D) Is designated a perinatal Level II center by the Illinois Department of Public Health.

13) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(12) of this Section.

B) Has an MIUR greater than 35 percent.

C) Has an average length of stay less than four days.

14) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(13) of this Section.

B) Has a Combined MIUR greater than 25 percent.

C) Has an MIUR greater than 12 percent.

D) Is designated a perinatal Level II center by the Illinois Department of Public Health.

E) Has licensed beds greater than 400.

F) Has an average length of stay less than 3.5 days.

15) A hospital provider that would otherwise be excluded from payment by subsection (a) because it does not operate a comprehensive emergency room, if the hospital provider operates within 1 mile of an affiliate hospital provider that is owned and controlled by the same governing body that

operates a comprehensive emergency room, as defined in 77 Ill. Adm. Code 250.710(a), and the provider operates a standby emergency room, as defined in 77 Ill. Adm. Code 250.710(c), and functions as an overflow emergency room for its affiliate hospital provider.

16) The hospital has an MIUR greater than 90% in the safety net hospital base year.

17) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(16) of this Section.

B) Is located outside HSA 6.

C) Has an MIUR greater than 16%.

D) Has licensed beds greater than 475.

E) Has an average length of stay less than five days.

18) The hospital meets all of the following criteria in the safety net base year:

A) Provided greater than 5,000 obstetrical care days.

B) Has a combined MIUR greater than 80%.

19) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(18) of this Section.

B) Has a CMIUR greater than 28 percent.

C) Is designated a perinatal Level II center by the Illinois Department of Public Health.

D) Has licensed beds greater than 320.

E) Had an occupancy rate greater than 37 percent in the safety net hospital base year.

F) Has an average length of stay less than 3.1 days.

20) The hospital meets all of the following criteria in the safety net base year:

A) Does not already qualify under subsections (a)(1) through (a)(19) of this Section.

B) Is a general acute care hospital.

C) Is designated a perinatal Level II center by the Illinois Department of Public Health.

D) Provided greater than 1,000 rehabilitation days in the safety net hospital base year.

21) The hospital meets all of the following criteria in the safety net base year:

A) Qualifies as a children's hospital under subsection (c)(1) of this Section.

B) Has an average length of stay less than 3.25 days.

C) Provided greater than 1,000 total days in the safety net hospital base year.

b) The following five classes of hospitals are ineligible for safety net adjustment payments associated with the qualifying criteria listed in subsections (a)(1) through (a)(4), subsections (a)(6) through (a)(8), subsections (a)(10) through (a)(15) and subsections (a)(17) through (a)(19) of this Section:

1) Hospitals located outside of Illinois.

2) County-owned hospitals, as described in Section 148.25(b)(1)(A).

3) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).

4) Psychiatric hospitals, as described in 89 Ill. Adm. Code 149.50(c)(1).

5) Long term stay hospitals, as described in 89 Ill. Adm. Code 149.50(c)(4).

c) Safety Net Adjustment Rates

1) For a hospital qualifying under subsection (a)(1) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:

A) A qualifying hospital – $15.00.

B) A rehabilitation hospital, as described in 89 Ill. Adm. Code 149.50(c)(2) – $20.00.

C) A children's hospital, as described in 89 Ill. Adm. Code 149.50(c)(3) – $20.00.

D) A children's hospital that has an MIUR greater than or equal to 80 per centum that is:

i) Located within HSA 6 or HSA 7 – $296.00.

ii) Located outside HSA 6 or HSA 7 – $35.00.

E) A children's hospital that has an MIUR less than 80 per centum, but greater than or equal to 60 per centum, that is:

i) Located within HSA 6 or HSA 7 – $35.00.

ii) Located outside HSA 6 or HSA 7 – $15.00.

F) A children's hospital that has an MIUR less than 60 per centum, but greater than or equal to 45 per centum, that is:

i) Located within HSA 6 or HSA 7 – $12.00.

ii) Located outside HSA 6 or HSA 7 – $5.00.

G) A children's hospital with more than 25 graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory" – $160.25.

H) A children's hospital that is a rural hospital – $145.00.

I) A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital that is located in HSA 6 and that:

i) Provides obstetrical care – $10.00.

ii) Has at least one graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – $5.00.

iii) Has at least one obstetrical graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – $5.00.

iv) Provided more than 5,000 obstetrical days during the safety net hospital base year – $35.00.

v) Provided fewer than 4,000 obstetrical days during the safety net hospital base year and its average length of stay is: less than or equal to 4.50 days – $5.00; less than 4.00 days – $5.00; less than 3.75 days – $5.00.

vi) Provides obstetrical care and has an MIUR greater than 65 percent – $11.00.

vii) Has greater than 700 licensed beds – $37.75.

J) A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital, that is located outside HSA 6, that has an MIUR greater than 50 per centum, and that:

i) Provides obstetrical care – $280.00 if federal approval is received by the Department for such a rate; otherwise, the

rate shall be $70.00.

ii) Does not provide obstetrical care – $120.00 if federal approval is received by the Department for such a rate; otherwise, the rate shall be $30.00.

iii) Is a trauma center, recognized by the Illinois Department of Public Health (DPH), as of July 1, 2005 – $173.50.

K) A qualifying hospital that provided greater than 35,000 total days in the safety net hospital base year – $43.25.

L) A qualifying hospital with two or more graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory", with an average length of stay fewer than 4.00 days – $48.00.

2) For a hospital qualifying under subsection (a)(2) of this Section, the rate shall be $123.00 for dates of service through March 2, 2013. The rate shall be increased by $41.00, to $164.00, for dates of service on or after March 3, 2013 through December 31, 2014. For dates of service on or after January 1, 2015, the rate shall be $123.00.

3) For a hospital qualifying under subsection (a)(3) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:

A) A qualifying hospital – $40.00.

B) A hospital that has an average length of stay of fewer than 4.00 days, and:

i) More than 150 licensed beds – $20.00.

ii) Fewer than 150 licensed beds – $40.00.

C) A qualifying hospital with the lowest average length of stay – $15.00.

D) A hospital that has a CMIUR greater than 65 per centum – $35.00.

E) A hospital that has fewer than 25 total admissions in the safety net hospital base year – $160.00.

4) For a hospital qualifying under subsection (a)(4) of this Section, the rate shall be $110.00 if federal approval is received by the Department for such a rate; otherwise, the rate shall be $55.00.

5) For a hospital qualifying under subsection (a)(5) of this Section, the rate is the sum of the amounts for each of the following for which it qualifies, divided by the hospital's total days:

A) The hospital that has the highest number of obstetrical care admissions – $30,840.00.

B) The greater of:

i) The product of $115.00 multiplied by the number of obstetrical care admissions.

ii) The product of $11.50 multiplied by the number of general care admissions.

6) For a hospital qualifying under subsection (a)(6) of this Section, the rate is $56.00 if federal approval is received by the Department for such a rate; otherwise, the rate shall be $53.00.

7) For a hospital qualifying under subsection (a)(7) of this Section, the rate is $315.50 through December 31, 2014~~June 30, 2012~~ if federal approval is received by the Department for that rate; otherwise, the rate shall be $210.50. For dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $210.50.

8) For a hospital qualifying under subsection (a)(8) of this Section, the rate is $124.50.

9) For a hospital qualifying under subsection (a)(9) of this Section, the rate is $133.00. For dates of service on or after July 1, 2010 through December

31, 2014~~June 30, 2012~~, this rate shall be increased by $72.00, to $205.00. For dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $85.50.

10) For a hospital qualifying under subsection (a)(10) of this Section, the rate is $13.75. For dates of service on or after July 1, 2010 through December 31, 2014~~June 30, 2012~~, this rate shall be increased by $25.00, to $38.75. For dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $13.75.

11) For a hospital qualifying under subsection (a)(11) of this Section, the rate is $421.00 through December 31, 2014~~June 30, 2012~~. For dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $39.50.

12) For a hospital qualifying under subsection (a)(12) of this Section, the rate is $240.50 if federal approval is received by the Department for such a rate; otherwise, the rate shall be $120.25.

13) For a hospital qualifying under subsection (a)(13) of this Section, for dates of service on or after April 1, 2009, the rate is $815.00.

14) For a hospital qualifying under subsection (a)(14) of this Section, the rate is $443.75 if federal approval is received by the Department for such a rate; otherwise, the rate shall be $343.75.

15) For a hospital qualifying under subsection (a)(16) of this Section, the rate is $39.50.

16) For a hospital qualifying under subsection (a)(17) of this Section, the rate is $69.00. This reimbursement rate is contingent on federal approval.

17) For a hospital qualifying under subsection (a)(18) of this Section, the rate is $56.00 through December 31, 2014~~June 30, 2012~~. For dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $16.00. This reimbursement rate is contingent on federal approval.

18) For a hospital qualifying under subsection (a)(19) of this Section, the rate is $229.00. For dates of service on or after July 1, 2010 through December 31, 2014~~June 30, 2012~~, this rate shall be increased by $113.00,

to $342.00. For dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $145.00.

19) For a hospital qualifying under subsection (a)(20) of this Section, the rate is $71.00 through December 31, 2014~~June 30, 2012~~. For dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $0.00.

20) For a hospital qualifying under subsection (a)(21) of this Section, the rate is $662.00 for dates of service on or after March 3, 2013 through December 31, 2014. For dates of service on or after January 1, 2015, the rate is $0.00.

d) Payment to a Qualifying Hospital

1) The total annual payments to a qualifying hospital shall be the product of the hospital's rate multiplied by two multiplied by total days.

2) For the safety net adjustment period occurring in State fiscal year 2011, total payments will be determined through application of the methodologies described in subsection (c) of this Section.

3) For safety net adjustment periods occurring after State fiscal year 2010, total payments made under this Section shall be paid in installments on, at least, a quarterly basis.

e) Definitions

1) "Average length of stay" means, for a given hospital, a fraction in which the numerator is the number of total days and the denominator is the number of total admissions.

2) "CMIUR" means, for a given hospital, the sum of the MIUR plus the Medicaid obstetrical inpatient utilization rate, determined as of October 1, 2001, as defined in Section 148.120(i)(6).

3) "General care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year

that were adjudicated by the Department by June 30, 2001, excluding admissions for: obstetrical care, as defined in subsection (e)(7) of this Section; normal newborns; psychiatric care; physical rehabilitation; and those covered in whole or in part by Medicare (Medicaid/Medicare crossover admissions).

4) "HSA" means Health Service Area, as defined by the Illinois Department of Public Health.

5) "Licensed beds" means, for a given hospital, the number of licensed beds, excluding long term care and substance abuse beds, as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois."

6) "MIUR", for a given hospital, has the meaning as defined in Section 148.120(i)(5) and shall be determined in accordance with Section 148.120(c) and (f). For purposes of this Section, the MIUR determination that was used to determine a hospital's eligibility for Disproportionate Share Hospital Adjustment payments in rate year 2002 shall be the same determination used to determine a hospital's eligibility for safety net adjustment payments in the Safety Net Adjustment Period.

7) "Obstetrical care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data, for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001, and were assigned by the Department a diagnosis related grouping (DRG) code of 370 through 375.

8) "Obstetrical care days" means, for a given hospital, days of hospital inpatient service associated with the obstetrical care admissions described in subsection (e)(7) of this Section.

9) "Occupancy rate" means, for a given hospital, a fraction, the numerator of which is the hospital's total days, excluding long term care and substance abuse days, and the denominator of which is the hospital's total beds, excluding long term care and substance abuse beds, multiplied by 365

days. The data used for calculation of the hospital occupancy rate is as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois".

10) "Safety net hospital base year" means the 12-month period beginning on July 1, 1999, and ending on June 30, 2000.

11) "Safety net adjustment period" means, beginning July 1, 2002, the 12 month period beginning on July 1 of a year and ending on June 30 of the following year.

12) "Total admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover admissions), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.

13) "Total days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.

f) Payment Limitations: In order to be eligible for any new payment or rate increase under this Section that would otherwise become effective for dates of service on or after July 1, 2010, a hospital located in a geographic area of the State in which the Department mandates some or all of the beneficiaries of the Medical Assistance Program residing in the area to enroll in a Care Coordination program as defined in 305 ILCS 5/5-30 must be a Coordinated Care Participating Hospital as defined in Section 148.295(g)(5). The payment limitation takes effect six months after the Department begins mandatory enrollment in the geographic area.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 148.140 Hospital Outpatient and Clinic Services

a) Fee-For-Service Reimbursement

1) Reimbursement for hospital outpatient services shall be made on a fee-for-service basis, except for:

A) Those services that meet the definition of the Ambulatory Procedure Listing (APL) as described in subsection (b) of this Section.

B) End stage renal disease treatment (ESRDT) services, as described in subsection (c) of this Section.

C) Those services provided by a Certified Pediatric Ambulatory Care Center (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D).

D) Those services provided by a Critical Clinic Provider as described in subsection (e) of this Section.

2) Except for the procedures under the APL groupings described in subsection (b) of this Section, fee-for-service reimbursement levels shall be at the lower of the hospital's usual and customary charge to the public or the Department's statewide maximum reimbursement screens. Hospitals will be required to bill the Department utilizing specific service codes. However, all specific client coverage policies (relating to client eligibility and scope of services available to those clients) that pertain to the service billed are applicable to hospitals in the same manner as to non-hospital providers who bill fee for service.

3) With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rate described in subsection (a)(2) of this Section shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:

A) The reimbursement rates described in subsection (a)(2) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the

first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

4) Maternal and Child Health Program rates, as described in 89 Ill. Adm. Code 140, Table M, shall be paid to Certified Hospital Ambulatory Primary Care Centers (CHAPCC), as described in 89 Ill. Adm. Code 140.461(f)(1)(A) and Section 148.25(b)(5)(A), Certified Hospital Organized Satellite Clinics (CHOSC), as described in 89 Ill. Adm. Code 140.461(f)(1)(B) and Section 148.25(b)(5)(B), and Certified Obstetrical Ambulatory Care Centers (COBACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(C), and Section 148.25(b)(5)(C). Maternal and Child Health Program rates shall also be paid to Certified Pediatric Ambulatory Care Centers (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), for covered services as described in 89 Ill. Adm. Code 140.462(e)(3), that are provided to non-assigned Maternal and Child Health Program clients, as described in 89 Ill. Adm. Code 140.464(b)(1).

5) Certified Pediatric Ambulatory Care Centers (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), shall be reimbursed in accordance with 89 Ill. Adm. Code 140.464(b)(2) for assigned clients.

6) Hospitals described in Sections 148.25(b)(2)(A) and 148.25(b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.

7) With the exception of the retrospective adjustment described in subsection (a)(3) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this Section.

b) Ambulatory Procedure Listing (APL)
Effective July 1, 2012~~January 1, 2006~~, the Department will reimburse hospitals for certain hospital outpatient procedures as described in subsection (b)(1) of this Section.

1) APL Groupings
Under the APL, a list was developed that defines those technical procedures that require the use of the hospital outpatient setting, its technical staff or equipment. These procedures are separated into separate groupings based upon the complexity and historical costs of the procedures. The groupings are as follows:

A) Surgical Groups

i) Surgical group 1(a) consists of intense surgical procedures. Group 1(a) surgeries require an operating suite with continuous patient monitoring by anesthesia personnel. This level of service involves advanced specialized skills and highly technical operating room personnel using high technology equipment. The rate for this surgical procedure group shall be $1,794.00.

ii) Surgical group 1(b) consists of moderately intense surgical procedures. Group 1(b) surgeries generally require the use of an operating room suite or an emergency room treatment suite, along with continuous monitoring by anesthesia personnel and some specialized equipment. The rate for this surgical procedure group shall be $1,049.00.

iii) Surgical group 1(c) consists of low intensity surgical procedures. Group 1(c) surgeries may be done in an operating suite or an emergency room and require relatively brief operating times. Such procedures may be performed for evaluation or diagnostic reasons. The rate for this surgical procedure group shall be $752.00.

iv) Surgical group 1(d) consists of surgical procedures of very low intensity. Group 1(d) surgeries may be done in an operating room or emergency room, have a low risk of complications, and include some physician-administered diagnostic and therapeutic procedures. Certain dental procedures performed by dentists are included in this group. In order for a dental procedure to be eligible for

reimbursement in the outpatient setting, the following criteria must be met: patient requires general anesthesia or conscious sedation; patient has a medical condition that places the patient at an increased surgical risk, such as, but not limited to, cardiopulmonary disease, congenital anomalies, history of complications associated with anesthesia, such as hyperthermia or allergic reaction, or bleeding diathesis; or the patient cannot be safely managed in an office setting because of behavioral, developmental, or mental disorder. The rate for this surgical procedure group shall be $287.00.

B) Diagnostic and Therapeutic Groups

i) Diagnostic and therapeutic group 2(a) consists of advanced or evolving technologically complex diagnostic or therapeutic procedures. Group 2(a) procedures are typically invasive and must be administered by a physician. The rate for this surgical procedure group shall be $941.00.

ii) Diagnostic and therapeutic group 2(b) consists of technologically complex diagnostic and therapeutic procedures that are typically non-invasive. Group 2(b) procedures typically include radiological consultation or a diagnostic study. The rate for this procedure group shall be $304.00.

iii) Diagnostic and therapeutic group 2(c) consists of other diagnostic tests. Group 2(c) procedures are generally non-invasive and may be administered by a technician and monitored by a physician. The rate for this procedure group shall be $176.00.

iv) Diagnostic and therapeutic group 2(d) consists of therapeutic procedures. Group 2(d) procedures typically involve parenterally administered therapeutic agents. Either a nurse or a physician is likely to perform such procedures. The rate for this procedure group shall be $136.00.

C) Group 3 reimbursement for services provided in a hospital emergency department will be made in accordance with one of the three levels described in this Section. Emergency Services mean those services that are for a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, possessing an average knowledge of medicine and health, could reasonably expect that the absence of immediate attention would result in placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part. The determination of the level of service reimbursable by the Department shall be based upon the circumstances at the time of the initial examination, not upon the final determination of the client's actual condition, unless the actual condition is more severe.

i) Emergency Level I refers to Emergency Services provided in the hospital's emergency department for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries that pose an immediate significant threat to life or physiologic function or requires an intense level of physician or nursing intervention. An "intense level" is defined as more than two hours of documented one-on-one nursing care or interactive treatment. The rate for this service shall be $181.00.

ii) Emergency Level II refers to Emergency Services that do not meet the definition in this Section of Emergency Level I care, but that are provided in the hospital emergency department for a medical condition manifesting itself by acute symptoms of sufficient severity. The rate for this service shall be $67.00.

iii) Non-Emergency/Screening Level means those services provided in the hospital emergency department that do not meet the requirements of Emergency Level I or II stated in this Section. For such care, the Department will reimburse

the hospital either applicable current FFS rates for the services provided or a screening fee, but not both. The rate for this service shall be $26.00.

D) Group 4 for observation services is established to reimburse such services that are provided when a patient's current condition does not warrant an inpatient admission but does require an extended period of observation in order to evaluate and treat the patient in a setting that provides ancillary resources for diagnosis or treatment with appropriate medical and skilled nursing care. The hospital may bill for both observation and other APL procedures but will be reimbursed only for the procedure (group) with the highest reimbursement rate. Observation services will be reimbursed under one of three categories:

i) for at least 60 minutes but less than six hours and 31 minutes of services, the rate shall be $74.00;

ii) for at least six hours and 31 minutes but less than 12 hours and 31 minutes of services, the rate shall be $222.00; or

iii) for at least 12 hours and 31 minutes or more of services, the rate shall be $443.00.

E) Group 5 for psychiatric treatment services is established to reimburse for certain outpatient treatment psychiatric services that are provided by a hospital that is enrolled with the Department to provide inpatient psychiatric services. Under this group, the Department will reimburse, at different rates, Type A and Type B Psychiatric Clinic Services, as defined in Section 148.40(d)(1). A different rate will also be reimbursed to children's hospitals as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).

i) The rate for Type A psychiatric clinic services shall be $68.00.

ii) The rate for Type A psychiatric clinic services provided by a Children's Hospital shall be $102.00.

iii) The rate for Type B psychiatric clinic services shall be $101.00.

iv) The rate for Type B psychiatric clinic services provided by a Children's Hospital shall be $102.00.

F) Effective July 1, 2012, subject to 89 Ill. Adm. Code 152.100, Group 6 for physical rehabilitation services shall no longer be in effect and outpatient physical rehabilitation services provided by a hospital shall be reimbursed through the non-institutional payment system, but will be reimbursed as a hospital service at the following rates of reimbursement:~~Group 6 for physical rehabilitation services is established to reimburse for certain outpatient physical rehabilitation services. Under this group, the Department will reimburse for services provided by a hospital enrolled with the Department to provide outpatient physical rehabilitation services at a different rate than will be reimbursed for physical rehabilitation services provided by a hospital that is not enrolled with the Department to provide physical rehabilitation services. A different rate will also be reimbursed to children's hospitals as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).~~

i) The rate for rehabilitation services provided by a hospital enrolled with the Department to provide outpatient physical rehabilitation shall be $130.00.

ii) The rate for rehabilitation services provided by a hospital that is not enrolled with the Department to provide physical rehabilitation shall be $115.00.

iii) The rate for rehabilitation services provided by children's hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(3)(A),~~Children's Hospitals~~ shall be $130.00.

2) Each of the groups described in subsection (b)(1) of this Section will be reimbursed by the Department considering the following:

A) The Department will provide cost outlier payments for specific devices and drugs associated with specific APL procedures. Such

payments will be made if:

i) The device or drug is on an approved list maintained by the Department. In order to be approved, the Department will consider requests from medical providers and shall base its decision on medical appropriateness of the device or drug and the costs of such device or drug; and

ii) The provision of such devices or drugs is deemed to be medically appropriate for a specific client, as determined by the Department's physician consultants.

B) Additional payment for such devices or drugs, as described in subsection (b)(2)(A) of this Section, will require prior authorization by the Department unless it is determined by the Department's professional medical staff that prior authorization is not warranted for a specific device or drug. When such prior authorization has been denied for a specific device or drug, the decision may be appealed as allowed by 89 Ill. Adm. Code 102.80(a)(7) and in accordance with the provisions for assistance appeals at 89 Ill. Adm. Code 104.

C) The amount of additional payment for devices or drugs, as described in subsection (b)(2)(A) of this Section, will be based on the following methodology:

i) The product of a cost to charge ratio that, in the case of cost reporting hospitals as described in Section 148.130(d), or in the case of other non-cost reporting providers, equals 0.5 multiplied by the provider's total covered charges on the qualifying claim, less the APL payment rate multiplied by four;

ii) If the result of subsection (b)(2)(C)(i) of this Section is less than or equal to zero, no additional payment will be made. If the result is greater than zero, the additional payment will equal the result of subsection (b)(2)(C)(i) of this Section, multiplied by 80 percent. In such cases, the provider will receive the sum of the APL payment and the additional

payment for such high cost devices or drugs.

D) For county-owned hospitals located in an Illinois county with a population greater than three million, reimbursement rates for each of the reimbursement groups shall be equal to the amounts described in subsection (b)(1) of this Section multiplied by a factor of 2.72.~~, except that physical rehabilitation services provided by a general care hospital not enrolled with the Department to provide outpatient physical rehabilitation services shall be reimbursed at a rate of $230.00 and the reimbursement rate for Type B psychiatric clinic services shall be $224.00.~~

E) Reimbursement rates for hospitals not required to file an annual cost report with the Department may be lower than those listed in this Section.

F) Reimbursement for each APL group described in this subsection (b) shall be all-inclusive for all services provided by the hospital, regardless of the amount charged by a hospital. No separate reimbursement will be made for ancillary services or the services of hospital personnel. Exceptions to this provision are that hospitals shall be allowed to bill separately, on a fee-for-service basis, for professional outpatient services of a physician providing direct patient care who is salaried by the hospital; chemotherapy services provided in conjunction with radiation therapy services; and physical rehabilitation, occupational or speech therapy services provided in conjunction with any APL group described in this subsection (b)~~; and occupational or speech therapy services provided in conjunction with rehabilitation services as described in subsection (b)(1)(F) of this Section~~. For the purposes of this Section, a salaried physician is a physician who is salaried by the hospital; a physician who is reimbursed by the hospital through a contractual arrangement to provide direct patient care; or a group of physicians with a financial contract to provide emergency department care. Under APL reimbursement, salaried physicians do not include radiologists, pathologists, nurse practitioners, or certified registered nurse anesthetists and no separate reimbursement will be allowed for such providers.

3) The assignment of procedure codes to each of the reimbursement groups in subsections~~subsection~~ (b)(1)(A) through (b)(1)(E) of this Section are detailed in the Department's Hospital Handbook and in notices to providers.

4) A one-time fiscal year 2000 payment will be made to hospitals. Payment will be based upon the services, specified in this Section, provided on or after July 1, 1998, and before July 1, 1999, which were submitted to the Department and determined eligible for payment (adjudicated) by the Department on or prior to April 30, 2000, excluding services for Medicare/Medicaid crossover claims and claims that resulted in a zero payment by the Department. A one-time amount of:

A) $27.75 will be paid for each service for procedure code W7183 (Psychiatric clinic Type A for adults).

B) $24.00 will be paid for each service for APL Group 5 (Psychiatric clinic Type A only) provided by a children's hospital as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).

C) $15.00 will be paid for each service for APL Group 6 (Physical rehabilitation services) provided by a children's hospital as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).

5) County Facility Outpatient Adjustment

A) Effective for services provided on or after July 1, 1995, county owned hospitals in an Illinois county with a population of over three million shall be eligible for a county facility outpatient adjustment payment. This adjustment payment shall be in addition to the amounts calculated under this Section and are calculated as follows:

i) Beginning with July 1, 1995, hospitals under this subsection shall receive an annual adjustment payment equal to total base year hospital outpatient costs trended forward to the rate year minus total estimated rate year hospital outpatient payments, multiplied by the resulting ratio derived when the value 200 is divided by the quotient

of the difference between total base year hospital outpatient costs trended forward to the rate year and total estimated rate year hospital outpatient payments divided by one million.

ii) The payment calculated under this subsection (b)(5)(A) may be adjusted by the Department to ensure compliance with aggregate and hospital specific federal payment limitations.

iii) The county facility outpatient adjustment under this subsection shall be made on a quarterly basis.

B) County Facility Outpatient Adjustment Definition. The definitions of terms used with reference to calculation of the county facility outpatient adjustment are as follows:

i) "Base Year" means the most recently completed State fiscal year.

ii) "Rate Year" means the State fiscal year during which the county facility adjustment payments are made.

iii) "Total Estimated Rate Year Hospital Outpatient Payments" means the Department's total estimated outpatient date of service liability, projected for the upcoming rate year.

iv) "Total Hospital Outpatient Costs" means the statewide sum of all hospital outpatient costs derived by summing each hospital's outpatient charges derived from actual paid claims data multiplied by the hospital's cost-to-charge ratio.

6) Critical Access Hospital Rate Adjustment
Hospitals designated by the Illinois Department of Public Health as Critical Access Hospital (CAH) providers in accordance with 42 CFR 485.subpart F shall be eligible for an outpatient rate adjustment for services identified in subsections (b)(1)(A) through (b)(1)(F), excluding services for Medicare/Medicaid crossover claims. This adjustment shall be calculated as follows:

A) An annual distribution factor shall be calculated as follows:

i) The numerator shall be $33 million.

ii) The denominator shall be the RY 2011 total outpatient cost coverage deficit calculated in accordance with 89 Ill. Adm. Code 148.115, less the RY 2011 Rural Adjustment Outpatient Payments calculated in accordance with 89 Ill. Adm. Code 148.115, plus the annual outpatient supplemental payment calculated in accordance with 89 Ill. Adm. Code 148.456.

B) Hospital Specific Adjustment Value
For each hospital qualified under this subsection (b)(6) the hospital specific adjustment value shall be the product of each hospital's specific cost coverage deficit calculated in subsection (b)(6)(A)(ii) and the distribution factor calculated in subsection (b)(6)(A):

C) Effective for dates of service on or after July 1, 2012, the final~~Final~~ APL Rate Adjustment Values shall be the quotient of:

i) The hospital specific adjustment value identified in subsection (b)(6)(B) divided by

ii) The total outpatient services identified in subsections (b)(1)(A) through (b)(1)(E)~~(F)~~, excluding services for Medicare/Medicaid crossover claims for calendar year 2009, adjudicated and contained in the Department's paid claims database as of December 31, 2010.

D) Non-State Government Owned Provider Adjustment
Final APL rates for hospitals identified in non-State government owned or operated providers in the State's Upper Payment Limits demonstration shall be adjusted when necessary to assure compliance with federal upper payment limits as stated in 42 CFR 447.304.

E) Applicability

The rates calculated in accordance with subsection (b)(6)(A) shall be effective for dates of service beginning January 1, 2011 and shall be adjusted each State fiscal year beginning July 1, 2011.

i) For State fiscal year 2011, the rate year shall begin January 1, 2011 and end June 30, 2011.

ii) For State fiscal year 2012 and beyond, the rate year shall be for dates of services beginning July 1 through June 30 of the subsequent year.

iii) For purposes of this adjustment, a children's hospital identified in Section 149.50(c)(3)(B) shall be combined with the corresponding general acute care parent hospital.

iv) Beginning with State fiscal year 2012 and each subsequent State fiscal year thereafter, the adjustment to the FY 2011 final APL Rate adjustment shall be limited to 2% in accordance with spending limits in 35 ILCS 5/201.5.

7) No Year-End Reconciliation
With the exception of the retrospective rate adjustment described in subsection (b)(9) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this subsection (b).

8) Rate Adjustments
With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rates described in subsection (b)(5) of this Section shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:

A) The reimbursement rates described in subsection (b)(5) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

B) The per diem cost of inpatient hospital services shall be calculated

by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

9) Services are available to all clients in geographic areas in which an encounter rate hospital or a county-operated outpatient facility is located. All specific client coverage policies (relating to client eligibility and scope of services available to those clients) that pertain to the service billed are applicable to hospitals reimbursed under the Ambulatory Care Program in the same manner as to encounter rate hospitals and to non-hospital and hospital providers who bill and receive reimbursement on a fee-for-service basis.

10) Hospitals described in Section 148.25(b)(2)(A) and (b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.

c) Payment for outpatient end-stage renal disease treatment (ESRDT) services provided pursuant to Section 148.40(c) shall be made at the Department's payment rates, as follows:

1) For inpatient hospital services provided pursuant to Section 148.40(c)(1), the Department shall reimburse hospitals pursuant to Sections 148.240 through 148.300 and 89 Ill. Adm. Code 149.

2) For outpatient services or home dialysis treatments provided pursuant to Section 148.40(c)(2) or (c)(3), the Department will reimburse hospitals and clinics for ESRDT services at a rate that will reimburse the provider for the dialysis treatment and all related supplies and equipment, as defined in 42 CFR 405.2163 (1994). This rate will be that rate established by Medicare pursuant to 42 CFR 405.2124 and 413.170 (1994).

3) Payment for non-routine services. For services that are provided during outpatient or home dialysis treatment pursuant to Section 148.40(c)(2) or (c)(3) but are not defined as a routine service under 42 CFR 405.2163 (1994), separate payment will be made to independent laboratories, pharmacies, and medical supply providers pursuant to 89 Ill. Adm. Code 140.430 through 140.434, 140.440 through 140.450, and 140.475 through 140.481, respectively.

4) Payment for physician services relating to ESRDT will be made separately to physicians, pursuant to 89 Ill. Adm. Code 140.400.

5) With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rates described in this subsection (c) shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:

A) The reimbursement rates described in this subsection (c) shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

6) With the exception of the retrospective rate adjustment described in subsection (c)(5) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this subsection (c).

7) Hospitals described in Section 148.25(b)(2)(A) and (b)(2)(B) of this Section shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.

d) Non Hospital-Based Clinic Reimbursement

1) County-Operated Outpatient Facility Reimbursement
Reimbursement for all services provided by county-operated outpatient facilities, as described in Section 148.25(b)(2)(C), that do not qualify as either a Maternal and Child Health Program managed care clinics, as described in 89 Ill. Adm. Code 140.461(f), or as a Critical Clinic Provider, as described in subsection (e) of this Section, shall be on an all-inclusive per encounter rate basis as follows:

A) Base Rate. The per encounter base rate shall be calculated as follows:

i) Allowable direct costs shall be divided by the number of direct encounters to determine an allowable cost per encounter delivered by direct staff.

ii) The resulting quotient, as calculated in subsection (d)(1)(A)(i) of this Section, shall be multiplied by the Medicare allowable overhead rate factor to calculate the overhead cost per encounter.

iii) The resulting product, as calculated in subsection (d)(1)(A)(ii) of this Section, shall be added to the resulting quotient, as calculated in subsection (d)(1)(A)(i) of this Section to determine the per encounter base rate.

iv) The resulting sum, as calculated in subsection (d)(1)(A)(iii) of this Section, shall be the per encounter base rate.

B) Supplemental Rate

i) The supplemental service cost shall be divided by the total number of direct staff encounters to determine the direct supplemental service cost per encounter.

ii) The supplemental service cost shall be multiplied by the allowable overhead rate factor to calculate the supplemental overhead cost per encounter.

iii) The quotient derived in subsection (d)(1)(B)(i) of this Section shall be added to the product derived in subsection (d)(1)(B)(ii) of this Section, to determine the per encounter supplemental rate.

iv) The resulting sum, as described in subsection (d)(1)(B)(iii) of this Section, shall be the per encounter supplemental rate.

C) Final Rate

i) The per encounter base rate, as described in subsection (d)(1)(A)(iv) of this Section, shall be added to the per encounter supplemental rate, as described in subsection (d)(1)(B)(iv) of this Section, to determine the per encounter final rate.

ii) The resulting sum, as determined in subsection (d)(1)(C)(i) of this Section, shall be the per encounter final rate.

iii) The per encounter final rate, as described in subsection (d)(1)(C)(ii) of this Section, shall be adjusted in accordance with subsection (d)(2) of this Section.

2) Rate Adjustments
Rate adjustments to the per encounter final rate, as described in subsection (d)(1)(C)(iii) of this Section, shall be calculated as follows:

A) The reimbursement rates described in subsections (d)(1)(A) through (d)(1)(C) and (e)(2) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

C) The final rate described in subsection (d)(1)(C) of this Section shall be no less than $147.09 per encounter.

3) County-operated outpatient facilities, as described in Section 148.25(b)(2)(C), shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year. No year-end reconciliation is made to the reimbursement calculated under this subsection (d).

4) Services are available to all clients in geographic areas in which an encounter rate hospital or a county-operated outpatient facility is located. All specific client coverage policies (relating to client eligibility and scope of services available to those clients) that pertain to the service billed are applicable to encounter rate hospitals in the same manner as to hospitals reimbursed under the Ambulatory Care Program and to non-hospital and hospital providers who bill and receive reimbursement on a fee-for-service basis.

e) Critical Clinic Providers

1) Effective for services provided on or after September 27, 1997, a clinic owned or operated by a county with a population of over three million, that is within or adjacent to a hospital, shall qualify as a Critical Clinic Provider if the facility meets the efficiency standards established by the Department. The Department's efficiency standards under this subsection (e) require that the quotient of total encounters per facility fiscal year for the Critical Clinic Provider divided by total full time equivalent physicians providing services at the Critical Clinic Provider shall be greater than:

A) 2700 for reimbursement provided during the facility's cost reporting year ending during 1998,

B) 2900 for reimbursement provided during the facility's cost reporting year ending during 1999,

C) 3100 for reimbursement provided during the facility's cost reporting year ending during 2000,

D) 3600 for reimbursement provided during the facility's cost reporting year ending during 2001, and

E) 4200 for reimbursement provided during the facility's cost reporting year ending during 2002.

2) Reimbursement for all services provided by any Critical Clinic Provider shall be on an all-inclusive per-encounter rate that shall equal reported direct costs of Critical Clinic Providers for each facility's cost reporting

period ending in 1995, and available to the Department as of September 1, 1997, divided by the number of Medicaid services provided during that cost reporting period as adjudicated by the Department through July 31, 1997.

3) Critical Clinic Providers, as described in this subsection (e), shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year. No year-end reconciliation is made to the reimbursement calculated under this subsection (e).

4) The reimbursement rates described in this subsection (e) shall be no less than the reimbursement rates in effect on July 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

f) Critical Clinic Provider Pharmacies
Prescribed drugs, dispensed by a pharmacy that is a Critical Clinic Provider, that are not part of an encounter reimbursable under subsection (e) of this Section shall be reimbursed at the rate described in subsection (e)(2) of this Section.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements

a) Utilization Review
The Department, or its designated peer review organization, shall conduct utilization review in compliance with Section 1152 of the Social Security Act and 42 CFR Subchapter F (October 1, 2001). A peer review shall be conducted by a Physician Peer Reviewer who is licensed to practice medicine in all its branches, engaged in the active practice of medicine, board certified or board eligible in his or her specialty and has admitting privileges in one or more Illinois hospitals. Payment will only be made for those admissions and days approved by the Department or its designated peer review organization. Utilization review may consist of, but not be limited to, preadmission, concurrent, prepayment, and

postpayment reviews to determine, pursuant to 42 CFR 476, Subpart C (October 1, 2001), the following:

1) Whether the services are or were reasonable and medically necessary for the diagnosis and treatment of illness or injury;

2) The medical necessity, reasonableness and appropriateness of hospital admissions and discharges, including, but not limited to, the coordination of care requirements defined in Section 148.40(a)(10) for the Children's Mental Health Screening, Assessment and Support Services (SASS) Program;

3) Through DRG (Diagnosis Related Grouping) (see 89 Ill. Adm. Code 149) validation, the validity of diagnostic and procedural information supplied by the hospital;

4) The completeness, adequacy and quality of hospital care provided;

5) Whether the quality of the services meets professionally recognized standards of health care; or

6) Whether those services furnished or proposed to be furnished on an inpatient basis could, consistent with the provisions of appropriate medical care, be effectively furnished more economically on an outpatient basis or in an inpatient health care facility of a different type.

b) Notice of Utilization Review
The Department shall provide hospitals with notice 30 days before a service is subject to utilization review, as described in subsections (c), (d), (e) and (f) of this Section, that the service is subject to such review. In determining whether a particular service is subject to utilization review, the Department may consider factors that include:

1) Assessment of appropriate level of care;

2) The service could be furnished more economically on an outpatient basis;

3) The inpatient hospital stays for the service deviate from the norm for inpatient stays using accepted length of stay criteria;

4) The cost of care for the service;

5) Denial rates; and

6) Trends or patterns that indicate potential for abuse.

c) Preadmission Review
Preadmission review may be conducted prior to admission to a hospital to determine if the services are appropriate for an inpatient setting. The Department shall provide hospitals with notice of the criteria used to determine medical necessity in preadmission reviews 30 days before a service is subject to preadmission review.

d) Concurrent Review
Concurrent review consists of a certification of admission and, if applicable, a continued stay review.

1) The certification of admission is performed to determine the medical necessity of the admission and to assign an initial length of stay based on the criteria for the admission. Admissions will be denied for patients age 21 years of age or over who present at a hospital within 60 days after a previous admission for specified alcohol-induced or drug-induced detoxification. The Department will specify to hospitals the lists of affected diagnosis codes via provider releases and postings on the Department's website.

2) The continued stay review is conducted to determine the medical necessity and appropriateness of continuing the inpatient hospitalization. More than one continued stay review can be performed in an inpatient stay.

e) Prepayment Review
The Department may require hospitals to submit claims to the Department for prepayment review and approval prior to rendering payment for services provided.

f) Postpayment Review
Postpayment review shall be conducted on a random sample of hospital stays following reimbursement to the hospital for the care provided. The Department

may also conduct postpayment review on specific types of care.

g) Hospital Utilization Control
Hospitals and distinct part units that participate in Medicare (Title XVIII) must use the same utilization review standards and procedures and review committee for Medicaid as they use for Medicare. Hospitals and distinct part units that do not participate in Medicare (Title XVIII) must meet the utilization review plan requirements in 42 CFR, Ch. IV, Part 456 (October 1, 2001). Utilization control requirements for inpatient psychiatric hospital care in a psychiatric hospital, as defined in 89 Ill. Adm. Code 149.50(c)(1) shall be in accordance with the federal regulations.

h) Denial of Payment as a Result of Utilization Review

1) If the Department determines, as a result of utilization review, that a hospital has misrepresented admissions, length of stay, discharges, or billing information, or has taken an action that results in the unnecessary admission or inappropriate discharge of a program participant, unnecessary multiple admissions of a program participant, unnecessary transfer of a program participant, or other inappropriate medical or other practices with respect to program participants or billing for services furnished to program participants, the Department may, as appropriate:

A) Deny payment (in whole or in part) with respect to inpatient hospital services provided with respect to such an unnecessary admission, inappropriate length of stay or discharge, subsequent readmission, transfer of an individual or failure to comply with the coordination of care requirements of Section 148.40.

B) Require the hospital to take action necessary to prevent or correct the inappropriate practice.

2) When payment with respect to the discharge of an individual patient is denied by the Department or its designated peer review organization, under subsection (h)(1)(A) of this Section as a result of prepayment review, a reconsideration will be provided within 30 days upon the request of a hospital or physician if such request is the result of a medical necessity or appropriateness of care denial determination and is received within 60 days after receipt of the notice of denial. The date of the notice

of denial is counted as day one.

3) When payment with respect to the discharge of an individual patient is denied by the Department or its designated peer review organization under subsection (h)(1)(A) of this Section as a result of a preadmission or concurrent review, the hospital or physician may request an expedited reconsideration. The request for expedited reconsideration must include all the information, including the medical record, needed for the Department or its designated peer review organization to make its determination. A determination on an expedited reconsideration request shall be completed within one business day after the Department's or its designated peer review organization's receipt of the request. Failure of the hospital or physician to submit all needed information shall toll the time in which the reconsideration shall be completed. The results of the expedited reconsideration shall be communicated to the hospital by telephone within one business day and in writing within three business days after the determination.

4) A determination under subsection (h)(1) of this Section, if it is related to a pattern of inappropriate admissions, length of stay and billing practices that has the effect of circumventing the prospective payment system, may result in:

A) withholding Medicaid payment (in full or in part) to the hospital until the hospital provides adequate assurances of compliance; or

B) termination of the hospital's Provider Agreement.

i) Furnishing of Inpatient Hospital Services Directly or Under Other Arrangements

1) The applicable payments made under Sections 148.82, 148.120, 148.130, 148.150, 148.160, 148.170, 148.175 and 148.250 through 148.300 are payment in full for all inpatient hospital services other than for the services of nonhospital-based physicians to individual program participants and the services of certain hospital-based physicians as described in subsections (i)(1)(B)(i) through (i)(1)(B)(v) of this Section .

A) Hospital-based physicians who may not bill separately on a fee-for-service basis:

i) A physician whose salary is included in the hospital's cost report for direct patient care may not bill separately on a fee-for-service basis.

ii) A teaching physician who provides direct patient care may not bill separately on a fee-for-service basis if the salary paid to the teaching physician by the hospital or other institution includes a component for treatment services.

B) Hospital-based physicians who may bill separately on a fee-for-service basis:

i) A physician whose salary is not included in the hospital's cost report for direct patient care may bill separately on a fee-for-service basis.

ii) A teaching physician who provides direct patient care may bill separately on a fee-for-service basis if the salary paid to the teaching physician by the hospital or other institution does not include a component for treatment services.

iii) A resident may bill separately on a fee-for-service basis when, by the terms of his or her contract with the hospital, he or she is permitted to and does bill private patients and collect and retain the payments received for those services.

iv) A hospital-based specialist who is salaried, with the cost of his or her services included in the hospital reimbursement costs, may bill separately on a fee-for-service basis when, by the terms of his or her contract with the hospital, he or she may charge for professional services and do, in fact, bill private patients and collect and retain the payments received.

v) A physician holding a nonteaching administrative or staff position in a hospital or medical school may bill separately on a fee-for-service basis to the extent that he or she maintains a private practice and bills private patients and

collects and retains payments made.

2) Charges are to be submitted on a fee-for-service basis only when the physician seeking reimbursement has been personally involved in the services being provided. In the case of surgery, it means presence in the operating room, performing or supervising the major phases of the operation, with full and immediate responsibility for all actions performed as a part of the surgical treatment.

j) "Designated peer review organization" means an organization designated by the Department that is experienced in utilization review and quality assurance, which meets the guidelines in Section 1152 of the Social Security Act and 42 CFR 475 (October 1, 2001).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 148.285 Excellence in Academic Medicine Payments (Repealed)

~~Payments for Qualified Academic Medical Center Hospitals providing graduate medical education shall be made for inpatient admissions occurring on or after July 1, 1996, and for Independent Academic Medical Center Hospitals providing graduate medical education shall be made for inpatient admissions occurring on or after July 1, 2001, as follows:~~

~~a) Subject to the availability of funds from the accounts within the Medical Research and Development Fund, including any federal financial participation reimbursed for payments under this subsection (a), payments shall be made to hospitals under the following criteria:~~

~~1) Each Qualified Chicago Metropolitan Statistical Area Academic Medical Center Hospital shall receive a percentage of the amount available from the National Institutes of Health Account, equal to that hospital's percentage of the total contracts and grants from the National Institutes of Health awarded to Qualified Chicago Metropolitan Statistical Area Academic Medical Center Hospitals and their affiliated medical schools during the preceding calendar year as reported to the Department.~~

~~2) Each Qualified Chicago Metropolitan Statistical Area Academic Medical Center Hospital shall receive payment from the Philanthropic Medical Research Account equal to 25 percent of all funded grants (other than~~

~~grants funded by the State of Illinois or the National Institutes of Health) for biomedical research, technology, or programmatic development received by the Qualified Chicago Metropolitan Statistical Area Academic Medical Center Hospital during the preceding calendar year as reported to the Department.~~

~~3) Each Qualified Chicago Metropolitan Statistical Area Academic Medical Center Hospital shall receive payment from the Market Medical Research Account equal to 20 percent of the funding for the project, if, based upon submission of information to the Department, the hospital:~~

~~A) contributes 40 percent of the funding, that is at least $100,000, for a biomedical research or technology project or a programmatic development project, and~~

~~B) obtains contributions from the private sector equal to 40 percent of the funding for the project.~~

~~b) No hospital receiving payments from the Medical Research and Development Fund shall receive more than 20 percent of the total amount appropriated to the Fund, except that total payments from the Fund to the primary teaching hospitals affiliated with the Southern Illinois University School of Medicine in Springfield, considered as a single entity, may not exceed the product of:~~

~~1) One-sixth of the total amount available for distribution from the Medical Research and Development Fund, and~~

~~2) The quotient of the National Institutes of Health grants or contracts awarded to the Southern Illinois University School of Medicine in Springfield and its affiliated primary teaching hospitals in the previous calendar year divided by $8,000,000.~~

~~c) The Southern Illinois University School of Medicine in Springfield and its affiliated primary teaching hospitals located in Springfield, considered as a single entity, shall be deemed to be a Qualified Chicago Metropolitan Statistical Area Academic Medical Center Hospital for the purposes of calculating subsections (a) and (b) of this Section. Payments under subsections (a) and (b) of this Section made to the Southern Illinois University School of Medicine in Springfield and its affiliated primary teaching hospitals located in Springfield shall be made to, and~~

~~divided equally between, the primary teaching hospitals in Springfield.~~

~~d)~~ ~~Subject to the availability of funds from the Post-Tertiary Clinical Services Fund, including any federal financial participation reimbursed for payments under this subsection (d), payments shall be made to Qualified Academic Medical Center Hospitals for up to three Qualified Programs in any given year as reported to the Department. Qualified Academic Medical Center Hospitals may receive continued funding for previously funded Qualified Programs rather than receive funding for a new program so long as the number of Qualified Programs receiving funding does not exceed three. Each hospital receiving payments under this subsection (d) shall receive an equal percentage of the Post-Tertiary Clinical Services Fund to be used in the funding of Qualified Programs.~~

~~e)~~ ~~Subject to the availability of funds from the Independent Academic Medical Center Fund, including any federal financial participation reimbursed for payments under this subsection (e), payments shall be made to Independent Academic Medical Center Hospitals.~~

~~f)~~ ~~Payments from funds under this Section are made to cover the direct costs associated with providing Medicaid services and shall be made directly to the Qualified Academic Medical Center Hospitals or Independent Academic Medical Center Hospitals due the funds, except any funds due to any primary teaching hospital for the University of Illinois School of Medicine at Rockford and the University of Illinois School of Medicine at Peoria shall be paid to the University of Illinois at Chicago Medical Center, which shall be bound to expend the funds on its affiliated hospitals due the funds.~~

~~g)~~ ~~No Academic Medical Center Hospital shall be eligible for payments from the Medical Research and Development Fund unless the Academic Medical Center Hospital, in connection with its affiliated medical school, received at least $8,000,000 in the preceding calendar year in grants or contracts from the National Institutes of Health, except that this restriction does not apply to the entity specified in subsection (c) of this Section.~~

~~h)~~ ~~The rate period for payments made under this Section shall be the 12 month period beginning July 1, 1996, for Qualified Academic Medical Center Hospitals, and July 1, 2001, for Independent Academic Medical Center Hospitals. A qualifying hospital's total annual payments from each fund and account described in this Section shall be divided into four equal payments and be made by the later~~

~~of:~~

~~1) the fifteenth working day after July 1, October 1, January 1, and March 1, or~~

~~2) the fifteenth working day after the Department's receipt of reporting information required under subsection (j) of this Section.~~

~~i) Payments made under this Section are for inpatient Medicaid services provided in the 12 month period preceding the rate period.~~

~~j) Qualified Academic Medical Center Hospitals initially identified by the Department as qualifying under any payment criteria of this Section must complete and return a survey, developed by the Department, attesting to information required to calculate payments under this Section. The Department will mail the survey at least 21 days prior to its due date. Failure to complete and submit required information by the due dates established by the Department will result in forfeiture of payments under this Section.~~

~~k) If a hospital is eligible for funds from the Independent Academic Medical Center Fund, that hospital shall not receive funds from the Medical Research and Development Fund or the Post-Tertiary Clinical Services Fund. If a hospital receives funds from the Medical Research and Development Fund or the Post-Tertiary Clinical Services Fund, that hospital is ineligible to receive funds from the Independent Academic Medical Center Fund.~~

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

~~1) "Academic Medical Center Hospital" means a hospital located in Illinois which is either under common ownership with the college of medicine of a college or university, or a free-standing hospital in which the majority of the clinical chiefs of service are department chairmen in an affiliated medical school.~~

~~2) "Academic Medical Center Children's Hospital" means a children's hospital which is separately incorporated and non-integrated into the Academic Medical Center Hospital, but which is the pediatric partner for an Academic Medical Center Hospital and serves as the primary teaching~~

~~hospital for pediatrics for its affiliated medical school. Children's hospitals which are separately incorporated, but integrated into the Academic Medical Center Hospital, are considered part of the Academic Medical Center Hospital.~~

~~3) "Chicago Metropolitan Statistical Area Academic Medical Center Hospital" means an Academic Medical Center Hospital located in the Chicago Metropolitan Statistical Area.~~

~~4) "Non-Chicago Metropolitan Statistical Area Academic Medical Center Hospital" means an Academic Medical Center Hospital located outside the Chicago Metropolitan Statistical Area.~~

~~5) "Qualified Chicago Metropolitan Statistical Area Academic Medical Center Hospital" means any Chicago Metropolitan Statistical Area Academic Medical Center Hospital that either directly or in connection with its affiliated medical school receives in excess of $8,000,000 in grants or contracts from the National Institutes of Health during the calendar year preceding the beginning of the State fiscal year, except for the purposes of subsection (c) of this Section.~~

~~6) "Qualified Non-Chicago Metropolitan Statistical Area Academic Medical Center Hospital" means the primary teaching hospital of the University of Illinois School of Medicine at Peoria, the primary teaching hospital for the University of Illinois School of Medicine at Rockford and the primary teaching hospitals for Southern Illinois University School of Medicine in Springfield.~~

~~7) "Qualified Academic Medical Center Hospital" means a Qualified Chicago Metropolitan Statistical Area Academic Medical Center Hospital, a Qualified Non-Chicago Metropolitan Statistical Area Academic Medical Center Hospital or an Academic Medical Center Children's Hospital.~~

~~8) "Independent Academic Medical Center Hospital" means the primary teaching hospital for the University of Illinois College of Medicine that is located in Urbana.~~

~~9) "Qualified Program" includes:~~

~~A)~~ ~~Thoracic transplantation: heart and lung, in particular,~~

~~B)~~ ~~Cancer: particularly biologic modifiers of tumor response, and mechanisms of drug resistance in cancer therapy,~~

~~C)~~ ~~Shock/Burn: development of biological alternatives to skin for grafting in burn injury, and research in mechanisms of shock and tissue injury in severe injury,~~

~~D)~~ ~~Abdominal transplantation: kidney, liver, pancreas, and development of islet cell and small bowel transplantation technologies,~~

~~E)~~ ~~Minimally invasive surgery: particularly laparoscopic surgery,~~

~~F)~~ ~~High performance medical computing: telemedicine and teleradiology,~~

~~G)~~ ~~Transmyocardial laser revascularization: a laser creates holes in heart muscles to allow new blood flow,~~

~~H)~~ ~~PET scanning: viewing how organs function (CT and MRI only allow viewing of the structure of an organ),~~

~~I)~~ ~~Strokes in the African-American community: particularly risk factors for cerebral vascular accident (strokes) in the African-American community at much higher risk than the general population,~~

~~J)~~ ~~Neurosurgery: particularly focusing on interventional neuroradiology,~~

~~K)~~ ~~Comprehensive eye center: including further development in pediatric eye trauma,~~

~~L)~~ ~~Cancers: particularly melanoma, head and neck,~~

~~M)~~ ~~Pediatric cancer,~~

~~N)~~ ~~Invasive pediatric cardiology,~~

~~O)~~ ~~Pediatric organ transplantation: transplantation of solid organs and marrow and other stem cells, and~~

~~P)~~ ~~Such other programs as may be identified by the Department and the Qualified Academic Medical Center Hospital, and approved by the Department, for those programs that meet appropriate biomedical research, technology, or programmatic development standards. Programs that meet appropriate biomedical research, technology or programmatic development standards are those programs that help prevent, detect, diagnose, and treat disease and disability in humans by conducting research that seeks to produce new knowledge, developing or refining medical technologies, or creating, strengthening or expanding the clinical programs of academic medical centers. Moreover, such programs meet the purpose of the Excellence in Academic Medicine Act [30 ILCS 775/5]. That is, they stimulate excellence in academic medicine in Illinois for this and future generations, elevate Illinois as a national center for academic medicine and for health care innovation in the United States, and reverse the current health care trade imbalance so Illinois citizens may obtain highest quality post-tertiary care at home in Illinois.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 148.295 Critical Hospital Adjustment Payments (CHAP)

Critical Hospital Adjustment Payments (CHAP) shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), unless otherwise noted in this Section, and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for inpatient admissions occurring on or after July 1, 1998, in accordance with this Section. For a hospital that is located in a geographic area of the State in which the Department mandates some or all of the beneficiaries of the Medical Assistance Program residing in the area to enroll in a Care Coordination program as defined in 305 ILCS 5/5-30 no new payment or rate increase that would otherwise become effective for dates of service on or after July 1, 2010 shall take effect under this Section unless the qualifying hospital also meets the definition of a Coordinated Care Participating Hospital as defined in subsection

(g)(5) of this Section no later than six months after the effective date of the first mandatory enrollment in the Coordinated Care Program.

a) Trauma Center Adjustments (TCA)
The Department shall make a TCA to hospitals recognized, as of the first day of July in the CHAP rate period, as a Level I or Level II trauma center by the Illinois Department of Public Health (DPH) in accordance with the provisions of subsections (a)(1) through (a)(4) of this Section. For the purpose of a TCA, a children's hospital, as defined under 89 Ill. Adm. Code 149.50(c)(3), operating under the same license as a hospital designated as a trauma center, shall be deemed to be a trauma center.

1) Level I Trauma Center Adjustment.

A) Criteria. Hospitals that, on the first day of July in the CHAP rate period, are recognized as a Level I trauma center by DPH shall receive the Level I trauma center adjustment. Hospitals qualifying under subsection (a)(2) are not eligible for payment under this subsection.

B) Adjustment. Hospitals meeting the criteria specified in subsection (a)(1)(A) of this Section shall receive an adjustment as follows:

i) Hospitals with Medicaid trauma admissions equal to or greater than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of $21,365 per Medicaid trauma admission in the CHAP base period.

ii) Hospitals with Medicaid trauma admissions less than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of $14,165 per Medicaid trauma admission in the CHAP base period.

2) Level I Trauma Center Adjustment for hospitals located in the same city~~,~~ that alternate their Level I trauma center designation.

A) Criteria. Hospitals that are located in the same city and participate in an agreement in effect as of July 1, 2007, whereby their designation as a Level I trauma center by the Illinois Department of Public Health is rotated among qualifying hospitals from year to year or during a year, that are in the following classes:

i) A children's hospital − All children's hospitals as defined in 89 Ill. Adm. Code 149.50(c)(3), in a given city, qualifying under subsection (a)(2)(A) shall be considered one entity for the purpose of calculating the adjustment in subsection (a)(2)(B).

ii) A general acute care hospital − All general acute care adult hospitals, in a given city, affiliated with a children's hospital, as defined in subsection (a)(2)(A)(i), qualifying under subsection (a)(2)(A) shall be considered one entity for the purposes of calculating the adjustment in subsection (a)(2)(B).

B) Adjustment. Hospitals meeting the criteria specified in subsection (a)(2)(A) shall receive an adjustment as follows:

i) If the sum of Medicaid trauma center admissions within either class, as described in subsection (a)(2)(A), is equal to or greater than the mean Medicaid trauma admissions for the 2 classes under subsection (a)(2)(A) of this Section, then each member of that class shall receive an adjustment of $5,250 per Medicaid trauma admission for that class, in the CHAP base period.

ii) If the sum of Medicaid trauma center admissions within either class, as described in subsection (a)(2)(A), is less than the mean Medicaid trauma admissions of the 2 classes under subsection (a)(2)(A) of this Section, then each member of that class shall receive an adjustment of $3,625 per Medicaid trauma admission for that class in the CHAP base period.

3) Level II Rural Trauma Center Adjustment. Rural hospitals, as defined in Section 148.25(g)(3), that, on the first day of July in the CHAP rate period, are recognized as a Level II trauma center by the Illinois Department of Public Health shall receive an adjustment of $11,565 per Medicaid trauma admission in the CHAP base period.

4) Level II Urban Trauma Center Adjustment. Urban hospitals, as described in Section 148.25(g)(4), that, on the first day of July in the CHAP rate period, are recognized as Level II trauma centers by the Illinois Department of Public Health shall receive an adjustment of $11,565 per Medicaid trauma admission in the CHAP base period, provided that such hospital meets the criteria described below:

A) The hospital is located in a county with no Level I trauma center; and

B) The hospital is located in a Health Professional Shortage Area (HPSA) (42 CFR 5), as of the first day of July in the CHAP rate period, and has a Medicaid trauma admission percentage at or above the mean of the individual facility values determined in subsection (a)(4) of this Section; or the hospital is not located in an HPSA and has a Medicaid trauma admission percentage that is at least the mean plus one standard deviation of the individual facility values determined in subsection (a)(4) of this Section; and

C) The hospital does not qualify under subsection (a)(2).

5) In determining annual payments that are pursuant to the Trauma Center Adjustments as described in this Section, for the CHAP rate period occurring in State fiscal year 2009, total payments will equal the methodologies described in this Section. For the period December 1, 2008 to June 30, 2009, payment will equal the State fiscal year 2009 amount less the amount the hospital received for the period July 1, 2008 to November 30, 2008.

b) Rehabilitation Hospital Adjustment (RHA)
Illinois hospitals that, on the first day of July in the CHAP rate period, qualify as free-standing acute comprehensive rehabilitation hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(2), and that are accredited by the Commission on

Accreditation of Rehabilitation Facilities (CARF) or the Joint Commission (previously known as the Joint Committee on Accreditation of Healthcare Organizations), shall receive a rehabilitation hospital adjustment in the CHAP rate period that consists of the following four components:

1) Treatment Component. All hospitals defined in subsection (b) of this Section shall receive $4,215 per Medicaid Level I rehabilitation admission in the CHAP base period.

2) Facility Component. All hospitals defined in subsection (b) of this Section shall receive a facility component that shall be based upon the number of Medicaid Level I rehabilitation admissions in the CHAP base period as follows:

A) Hospitals with fewer than 60 Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of $229,360 in the CHAP rate period.

B) Hospitals with 60 or more Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of $527,528 in the CHAP rate period.

3) Health Professional Shortage Area Adjustment Component. Hospitals defined in subsection (b) of this Section that are located in an HPSA on July 1, 1999, shall receive $276.00 per Medicaid Level I rehabilitation inpatient day in the CHAP base period.

4) Hospitals qualifying under this subsection (b) that are, as of July 1, 2010, designated as a "magnet hospital" by the American Nurses' Credentialing Center will receive a magnet component of $1,500,000 annually for the period July 1, 2010 through December 31, 2014~~through June 30, 2012~~.

c) Direct Hospital Adjustment (DHA) Criteria

1) Qualifying Criteria
Hospitals may qualify for the DHA under this subsection (c) under the following categories unless the hospital does not provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on or after July 1, 2006, but did provide comprehensive emergency

treatment services as defined in 77 Ill. Adm. Code 250.710(a) on January 1, 2006:

A) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals and long term stay hospitals, all other hospitals located in Health Service Area (HSA) 6 that either:

i) were eligible for Direct Hospital Adjustments under the CHAP program as of July 1, 1999 and had a Medicaid inpatient utilization rate (MIUR) equal to or greater than the statewide mean in Illinois on July 1, 1999;

ii) were eligible under the Supplemental Critical Hospital Adjustment Payment (SCHAP) program as of July 1, 1999 and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999; or

iii) were county owned hospitals as defined in 89 Ill. Adm. Code 148.25(b)(1)(A), and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999.

B) Illinois hospitals located outside of HSA 6 that had an MIUR greater than 60 percent on July 1, 1999 and an average length of stay less than ten days. The following hospitals are excluded from qualifying under this subsection (c)(1)(B): children's hospitals; psychiatric hospitals; rehabilitation hospitals; and long term stay hospitals.

C) Children's hospitals, as defined under 89 Ill. Adm. Code 149.50(c)(3), on July 1, 1999.

D) Illinois teaching hospitals, with more than 40 graduate medical education programs on July 1, 1999, not qualifying in subsection (c)(1)(A), (B), or (C) of this Section.

E) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals qualifying in subsection

(c)(1)(A), (B), (C) or (D) of this Section, all other hospitals located in Illinois that had an MIUR equal to or greater than the mean plus one-half standard deviation on July 1, 1999 and provided more than 15,000 total days.

F) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A), (B), (C), (D), or (E) of this Section, all other hospitals that had an MIUR greater than 40 percent on July 1, 1999 and provided more than 7,500 total days and provided obstetrical care as of July 1, 2001.

G) Illinois teaching hospitals with 25 or more graduate medical education programs on July 1, 1999 that are affiliated with a Regional Alzheimer's Disease Assistance Center as designated by the Alzheimer's Disease Assistance Act [410 ILCS 405/4], that had an MIUR less than 25 percent on July 1, 1999 and provided 75 or more Alzheimer days for patients diagnosed as having the disease.

H) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A) through (c)(1)(G) of this Section, all other hospitals that had an MIUR greater than 50 percent on July 1, 1999.

I) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A) through (c)(1)(H) of this Section, all other hospitals that had an MIUR greater than 23 percent on July 1, 1999, had an average length of stay less than four days, provided more than 4,200 total days and provided 100 or more Alzheimer days for patients diagnosed as having the disease.

J) A hospital that does not qualify under subsection (c)(1) of this Section because it does not operate a comprehensive emergency room will qualify if the hospital provider operates a standby

emergency room, as defined in 77 Ill. Adm. Code 250.710(c), and functions as an overflow emergency room for its affiliate hospital provider, owned and controlled by the same governing body, that operates a comprehensive emergency room, as defined in 77 Ill. Adm. Code 250.710(a), within one mile of the hospital provider.

2) DHA Rates

A) For hospitals qualifying under subsection (c)(1)(A) of this Section, the DHA rates are as follows:

i) Hospitals that have a Combined MIUR that is equal to or greater than the Statewide mean Combined MIUR, but less than one standard deviation above the Statewide mean Combined MIUR, will receive $69.00 per day for hospitals that do not provide obstetrical care and $105.00 per day for hospitals that do provide obstetrical care.

ii) Hospitals that have a Combined MIUR that is equal to or greater than one standard deviation above the Statewide mean Combined MIUR, but less than one and one-half standard deviation above the Statewide mean Combined MIUR, will receive $105.00 per day for hospitals that do not provide obstetrical care and $142.00 per day for hospitals that do provide obstetrical care.

iii) Hospitals that have a Combined MIUR that is equal to or greater than one and one-half standard deviation above the Statewide mean Combined MIUR, but less than two standard deviations above the Statewide mean Combined MIUR, will receive $124.00 per day for hospitals that do not provide obstetrical care and $160.00 per day for hospitals that do provide obstetrical care.

iv) Hospitals that have a Combined MIUR that is equal to or greater than two standard deviations above the Statewide mean Combined MIUR will receive $142.00 per day for hospitals that do not provide obstetrical care and $179.00 per day for hospitals that do provide obstetrical care.

B) Hospitals qualifying under subsection (c)(1)(A) of this Section will also receive the following rates:

i) County owned hospitals as defined in Section 148.25 with more than 30,000 total days will have their rate increased by $455.00 per day.

ii) Hospitals that are not county owned with more than 30,000 total days will have their rate increased by $354.00 per day for dates of service on or after April 1, 2009.

iii) Hospitals with more than 80,000 total days will have their rate increased by an additional $423.00 per day.

iv) Hospitals with more than 4,500 obstetrical days will have their rate increased by $101.00 per day.

v) Hospitals with more than 5,500 obstetrical days will have their rate increased by an additional $194.00 per day.

vi) Hospitals with an MIUR greater than 74 percent will have their rate increased by $147.00 per day.

vii) Hospitals with an average length of stay less than 3.9 days will have their rate increased by $385.00 per day through December 31, 2014~~June 30, 2012~~. For dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $131.00.

viii) Hospitals with an MIUR greater than the statewide mean plus one standard deviation that are designated a Perinatal Level 2 Center and have one or more obstetrical graduate medical education programs as of July 1, 1999 will have their rate increased by $360.00 per day for dates of service on or after April 1, 2009.

ix) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an average length of stay less than

four days will have their rate increased by $650.00 per day for dates of service on or after April 1, 2009.

x) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an MIUR greater than 60 percent will have their rate increased by $320.50 per day.

xi) Hospitals receiving payments under subsection (c)(2)(A)(iv) of this Section that have an MIUR greater than 70 percent and have more than 20,000 days will have their rate increased by $185.00 per day for dates of service on or after April 1, 2009.

xii) Hospitals with a Combined MIUR greater than 75 percent that have more than 20,000 total days, have an average length of stay less than five days and have at least one graduate medical program will have their rate increased by $148.00 per day.

C) Hospitals qualifying under subsection (c)(1)(B) of this Section will receive the following rates:

i) Qualifying hospitals will receive a rate of $421.00 per day.

ii) Qualifying hospitals with more than 1,500 obstetrical days will have their rate increased by $824.00 per day through December 31, 2014~~June 30, 2012~~. For dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $369.00.

D) Hospitals qualifying under subsection (c)(1)(C) of this Section will receive the following rates:

i) Hospitals will receive a rate of $28.00 per day.

ii) Hospitals located in Illinois and outside of HSA 6 that have an MIUR greater than 60 percent will have their rate increased by $55.00 per day.

iii) Hospitals located in Illinois and inside HSA 6 that have an MIUR greater than 80 percent will have their rate increased by $573.00 per day. For dates of service on or after July 1, 2010 through December 31, 2014~~June 30, 2012~~, this rate shall be increased by an additional $47.00, to $620.00.

iv) Hospitals that are not located in Illinois that have an MIUR greater than 45 percent will have their rate increased by:

- For hospitals that have fewer than 4,000 total days, $32.00 per day.

- For hospitals that have more than 4,000 total days but fewer than 8,000 total days, $363.00 per day for dates of service through December 1, 2014~~June 30, 2012~~; for dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $246.00 per day.

- For hospitals that have more than 8,000 total days, $295.00 per day for dates of service through December 31, 2014~~June 30, 2012~~; for dates of service on or after January 1, 2015~~July 1, 2012~~, the rate is $178 per day.

v) Hospitals with more than 3,200 total admissions will have their rate increased by $328.00 per day.

E) Hospitals qualifying under subsection (c)(1)(D) of this Section will receive the following rates:

i) Hospitals will receive a rate of $41.00 per day.

ii) Hospitals with an MIUR between 18 percent and 19.75 percent will have their rate increased by an additional $14.00 per day.

iii) Hospitals with an MIUR equal to or greater than 19.75 percent will have their rate increased by an additional

$191.00 per day for dates of service on or after April 1, 2009.

iv) Hospitals with a combined MIUR that is equal to or greater than 35 percent will have their rate increased by an additional $41.00 per day. For dates of service on or after July 1, 2010 through December 21, 2014~~June 30, 2012~~, this rate shall be further increased by $54.00 per day, to $95.00 per day.

F) Hospitals qualifying under subsection (c)(1)(E) of this Section will receive $188.00 per day.

G) Hospitals qualifying under subsection (c)(1)(F) of this Section will receive a rate of $55.00 per day.

H) Hospitals that qualify under subsection (c)(1)(G) of this Section will receive the following rates:

i) Hospitals with an MIUR greater than 19.75 percent will receive a rate of $69.00 per day.

ii) Hospitals with an MIUR equal to or less than 19.75 percent, will receive a rate of $11.00 per day.

I) Hospitals qualifying under subsection (c)(1)(H) of this Section will receive a rate of $268.00 per day.

J) Hospitals qualifying under subsection (c)(1)(I) of this Section will receive a rate of $328.00 per day if federal approval is received by the Department for such a rate; otherwise, the rate shall be $238.00 per day.

K) Hospitals that qualify under subsection (c)(1)(A)(iii) of this Section will have their rates multiplied by a factor of two. The payments calculated under this Section to hospitals that qualify under subsection (c)(1)(A)(iii) of this Section may be adjusted by the Department to ensure compliance with aggregate and hospital specific federal payment limitations. A portion of the payments

calculated under this Section may be classified as disproportionate share adjustments for hospitals qualifying under subsection (c)(1)(A)(iii) of this Section.

3) DHA Payments

A) Payments under this subsection (c) will be made at least quarterly, beginning with the quarter ending December 31, 1999.

B) Payment rates will be multiplied by the total days.

C) For the CHAP rate period occurring in State fiscal year 2011, total payments will equal the methodologies described in subsection (c)(2) of this Section.

d) Rural Critical Hospital Adjustment Payments (RCHAP)
RCHAP shall be made to rural hospitals, as described in 89 Ill. Adm. Code 140.80(j)(1), for certain inpatient admissions. The hospital qualifying under this subsection that has the highest number of Medicaid obstetrical care admissions during the CHAP base period shall receive $367,179 per year. The Department shall also make an RCHAP to hospitals qualifying under this subsection at a rate that is the greater of:

1) the product of $1,367 multiplied by the number of RCHAP Obstetrical Care Admissions in the CHAP base period, or

2) the product of $138.00 multiplied by the number of RCHAP General Care Admissions in the CHAP base period.

e) Total CHAP Adjustments
Each eligible hospital's critical hospital adjustment payment shall equal the sum of the amounts described in subsections (a), (b), (c) and (d) of this Section. The critical hospital adjustment payments shall be paid at least quarterly.

f) Critical Hospital Adjustment Limitations
Hospitals that qualify for trauma center adjustments under subsection (a) of this Section shall not be eligible for the total trauma center adjustment if, during the CHAP rate period, the hospital is no longer recognized by the Illinois Department of Public Health as a Level I trauma center as required for the adjustment

described in subsection (a)(1) of this Section, or a Level II trauma center as required for the adjustment described in subsection (a)(2) or (a)(3) of this Section. In these instances, the adjustments calculated shall be pro-rated, as applicable, based upon the date that such recognition ceased. This limitation does not apply to hospitals qualifying under subsection (a)(2). Payments under this Section are subject to federal approval.

g) Critical Hospital Adjustment Payment Definitions
The definitions of terms used with reference to calculation of the CHAP required by this Section are as follows:

1) "Alzheimer days" means total paid days contained in the Department's paid claims database with a ICD-9-CM diagnosis code of 331.0 for dates of service occurring in State fiscal year 2001 and adjudicated through June 30, 2002.

2) "CHAP base period" means State Fiscal Year 1994 for CHAP calculated for the July 1, 1995 CHAP rate period; State Fiscal Year 1995 for CHAP calculated for the July 1, 1996 CHAP rate period; etc.

3) "CHAP rate period" means, beginning July 1, 1995, the 12 month period beginning on July 1 of the year and ending June 30 of the following year.

4) "Combined MIUR" means the sum of Medicaid Inpatient Utilization Rate (MIUR) as of July 1, 1999, and as defined in Section 148.120(k)(5), plus the Medicaid obstetrical inpatient utilization rate, as described in Section 148.120(k)(6), as of July 1, 1999.

5) "Coordinated Care Participating Hospital" means a hospital that is located in a county~~geographic area~~ of the State in which the Department mandates some or all of the beneficiaries of the Medical Assistance Program residing in the area to enroll in a care coordination program as defined in 305 ILCS 5/5-30 that is one of the following:

A) Has entered into a contract to provide hospital services to enrollees of the care coordination program.

B) Has not been offered a contract by a care coordination plan that pays not less than the Department would have paid on a fee-for-

service basis, but excluding disproportionate share hospital adjustment payments or any other supplement payment that the Department pays directly.

C) Is not licensed to serve the population mandated to enroll in the care coordination program.

6) "Medicaid general care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns, Medicare/Medicaid crossover admissions, psychiatric and rehabilitation admissions.

7) "Medicaid Level I rehabilitation admissions" means those claims billed as Level I admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 054.3, 310.1 through 310.2, 320.1, 336.0 through 336.9, 344.0 through 344.2, 344.8 through 344.9, 348.1, 801.30, 803.10, 803.84, 806.0 through 806.19, 806.20 through 806.24, 806.26, 806.29 through 806.34, 806.36, 806.4 through 806.5, 851.06, 851.80, 853.05, 854.0 through 854.04, 854.06, 854.1 through 854.14, 854.16, 854.19, 905.0, 907.0, 907.2, 952.0 through 952.09, 952.10 through 952.16, 952.2, and V57.0 through V57.89, excluding admissions for normal newborns.

8) "Medicaid Level I rehabilitation inpatient day" means the days associated with the claims defined in subsection (g)(5) of this Section.

9) "Medicaid obstetrical care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of Social Security Act, with Diagnosis Related Grouping (DRG) of 370 through 375; and specifically excludes Medicare/Medicaid crossover claims.

10) "Medicaid trauma admission" means those claims billed as admissions for recipients of medical assistance under Title XIX of the Social Security Act that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 800.0 through 800.99, 801.0 through 801.99, 802.0 through 802.99, 803.0 through 803.99, 804.0 through 804.99, 805.0 through 805.98, 806.0 through 806.99, 807.0 through 807.69, 808.0 through 808.9, 809.0 through 809.1, 828.0 through 828.1, 839.0 through 839.31, 839.7 through 839.9, 850.0 through 850.9, 851.0 through 851.99, 852.0 through 852.59, 853.0 through 853.19, 854.0 through 854.19, 860.0 through 860.5, 861.0 through 861.32, 862.8, 863.0 through 863.99, 864.0 through 864.19, 865.0 through 865.19, 866.0 through 866.13, 867.0 through 867.9, 868.0 through 868.19, 869.0 through 869.1, 887.0 through 887.7, 896.0 through 896.3, 897.0 through 897.7, 900.0 through 900.9, 902.0 through 904.9, 925 through 925.2, 926.8, 929.0 through 929.99, 958.4, 958.5, 990 through 994.99.

11) "Medicaid trauma admission percentage" means a fraction, the numerator of which is the hospital's Medicaid trauma admissions and the denominator of which is the total Medicaid trauma admissions in a given 12 month period for all Level II urban trauma centers.

12) "RCHAP general care admissions" means Medicaid General Care Admissions, as defined in subsection (g)(4) of this Section, less RCHAP Obstetrical Care Admissions, occurring in the CHAP base period.

13) "RCHAP obstetrical care admissions" means Medicaid Obstetrical Care Admissions, as defined in subsection (g)(7) of this Section, with a Diagnosis Related Grouping (DRG) of 370 through 375, occurring in the CHAP base period.

14) "Total admissions" means total paid admissions contained in the Department's paid claims database, including obstetrical admissions multiplied by two and excluding Medicare crossover admissions, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.

15) "Total days" means total paid days contained in the Department's paid claims database, including obstetrical days multiplied by two and excluding Medicare crossover days, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.

16) "Total obstetrical days" means hospital inpatient days for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999, with an ICD-9-CM principal diagnosis code of 640.0 through 648.9 with a 5th digit of 1 or 2; 650; 651.0 through 659.9 with a 5th digit of 1, 2, 3, or 4; 660.0 through 669.9 with a 5th digit of 1, 2, 3, or 4; 670.0 through 676.9 with a 5th digit of 1 or 2; V27 through V27.9; V30 through V39.9; or any ICD-9-CM principal diagnosis code that is accompanied with a surgery procedure code between 72 and 75.99; and specifically excludes Medicare/Medicaid crossover claims.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 148.458 General Provisions

Unless otherwise indicated, the following apply to Sections 148.440 through 148.456.

a) Definitions.

"Base inpatient payments" means, for a given hospital, the sum of payments made using the rates defined in Section 148(b)(1) for services provided during State fiscal year 2005 and adjudicated by the Department through March 23, 2007.

"Capital cost per diem" means, for a given hospital, the quotient of (i) the total capital costs determined using the most recent 2005 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on December 31, 2006, divided by (ii) the total inpatient days from the same cost report to calculate a capital cost per day. The resulting capital cost per day is inflated to the midpoint of State fiscal year 2009 utilizing the national hospital market price proxies hospital cost index. If a hospital's 2005 Medicare cost report is not contained in the Healthcare Cost Report Information System, the Department shall use the data reported on the hospital's 2005 Medicaid cost report.

"Case mix index" means, for a given hospital, the quotient resulting from dividing (i) the sum of the all diagnosis related grouping relative weighting factors in effect on January 1, 2005, for all category of service 20 admissions for State fiscal year 2005, excluding Medicare crossover admissions and transplant admissions reimbursed under 89 Ill. Adm. Code 148.82, by (ii) the total number of category of service 20 admissions for State fiscal year 2005, excluding Medicare crossover admissions and transplant admissions reimbursed under 89 Ill. Adm. Code 148.82.

"Children's hospital" means a hospital as described in Section 149.50(c)(3).

"Eligibility growth factor" means the percentage by which the number of Medicaid recipients in the county increased from State fiscal year 1998 to State fiscal year 2005.

"Freestanding children's hospital" means an Illinois Children's hospital that is licensed by the Illinois Department of Public Health as a pediatric hospital.

"Freestanding specialty hospital" means an Illinois hospital that is neither a general acute care hospital nor a large public hospital nor a freestanding children's hospital.

"General acute care hospital" means an Illinois hospital that operates under a general license (i.e., is not licensed by the Illinois Department of Public Health as a psychiatric, pediatric, rehabilitation, or tuberculosis specialty hospital) and is not a long term stay hospital, as described in Section 149.50(c)(4).

"Large public hospital" means a county-owned hospital, as described in Section 148.25(b)(1)(a), a hospital organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(b), or a hospital owned or operated by a State agency, as described in Section 148.40(a)(7).

"Medicaid inpatient days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), for admissions occurring during State fiscal year 2005 as adjudicated by the Department through March 23, 2007.

"Medicaid obstetrical days" means, for a given hospital, the sum of days of inpatient hospital service provided to Illinois recipients of medical assistance under Title XIX of the federal Social Security Act, assigned a diagnosis related group code of 370 through 375, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), for admissions occurring during State fiscal year 2005, adjudicated by the Department through March 23, 2007.

"Medicaid obstetrical rate" means, for a given hospital, a fraction, the numerator of which is the hospital's Medicaid obstetrical days and the denominator is the hospital's Medicaid inpatient days.

"Medicare crossover rate" means, for a given hospital, a fraction, the numerator of which is the number patient days provided to individuals eligible for both Medicare under Title XVIII and Medicaid under Title XIX of the federal Social Security Act and the denominator of which is the number patient days provided to individuals eligible for medical programs administered by the Department, both as recorded in the Department's paid claims data.

"MIUR" means Medicaid inpatient utilization rate as defined in Section 148.120(K)(4).

b) Payment.

1) The annual amount of each payment for which a hospital qualifies shall be made in 12 equal installments on or before the seventh State business day of each month. If a hospital closes or ceases to do business, payments will be prorated based on the number of days the hospital was open during the State fiscal year in which the hospital closed or ceased to do business.

2) Monthly payments may be combined into a single payment to a qualifying hospital. Such a payment will represent the total monthly payment a qualifying hospital receives pursuant to Sections 148.440 through 148.456.

3) The Department may adjust payments made pursuant to Article V-A of the Public Aid Code to comply with federal law or regulations regarding hospital-specific payment limitations on government-owned or government-operated hospitals.

4) If the federal Centers for Medicare and Medicaid Services finds that any federal upper payment limit applicable to the payments under Article V-A of the Illinois Public Aid Code is exceeded, then the payments under Article V-A of the Illinois Public Aid Code that exceed the applicable federal upper limit shall be reduced uniformly to the extent necessary to comply with the federal limit.

c) Rate reviews.

1) A hospital shall be notified in writing of the results of the payment determination pursuant to Sections 148.440 through 148.456.

2) Hospitals shall have a right to appeal the calculation of, or their ineligibility for, payment if the hospital believes that the Department has made a technical error. The appeal must be submitted in writing to the Department and must be received or postmarked within 30 days after the date of the Department's notice to the hospital of its qualification for the payment amounts, or a letter of notification that the hospital does not qualify for payments. Such a request must include a clear explanation of the reason for the appeal and documentation that supports the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section 148.510 Reimbursement

When a hospital or ambulance provider furnishes emergency services, a hospital or health care professional or laboratory provides follow-up healthcare, or a pharmacy dispenses prescribed medications to any sexual assault survivor who is neither eligible to receive those services under the Illinois Public Aid Code [305 ILCS 5/5] nor covered for those services by a policy of insurance, the hospital, ambulance provider, health care professional, laboratory or pharmacy shall furnish the services without charge to that person, and shall be entitled to be reimbursed in providing the services, under the following conditions:

a) An Illinois hospital shall be eligible for reimbursement only after receiving

Department of Public Health approval for participation as a Sexual Assault Treatment Facility or as a Sexual Assault Transfer Facility.

b) Charges for outpatient emergency care, physician, and ambulance transportation, and other related charges, shall be reimbursed as described in this subsection (b):~~only through the hospital outpatient billing department.~~

1) Physicians, ambulance providers, and other miscellaneous medical providers rendering services in the hospital emergency department shall ~~not~~ be directly reimbursed by the Department of Healthcare and Family Services.

2) Charges for inpatient care shall not be reimbursed.

3) Charges must be directly related to care rendered for examinations, injuries, or trauma resulting from a sexual assault and/or the completion of sexual assault evidence collection through the use and application of the Illinois State Police Sexual Assault Evidence Collection Kit.

4) Emergency services must have been provided within the hospital emergency department or under the direction of an attending emergency room physician at the facility who supervised or provided the hospital emergency care of the sexual assault survivor, or during the ambulance transport of the sexual assault survivor.

5) Charges may include, but are not limited to, outpatient emergency care, physician, laboratory, x-ray, pharmacy and ambulance services, including charges for follow-up visits to the emergency department that are related to the sexual assault and occur within 90 days after the initial visit.

6) Services~~The billed charges for services~~ provided to sexual assault survivors shall be reimbursed at the Department's reimbursement rates.~~no greater than the provider's customary charges to the general public for those types of services. Physician fees shall be no greater than those considered usual and customary in the community. Pharmacy services shall be reimbursed at the Department's pharmacy reimbursement rates established in 89 Ill. Adm. Code 140.445 and 89 Ill. Adm. Code 140.446.~~

7) Claims must be received by the Department within 180 days~~12 months~~

from the date of service to be eligible for payment pursuant to 89 Ill. Adm. Code 140.20.

c) The hospital shall maintain sufficient records to document its charges for services to each sexual assault survivor. The records shall be available for the Department's review upon its request and shall contain at least the following:

1) Sexual assault survivor's name, address, date of birth, Social Security Number, marital status, sex, employer and name of parent or guardian (if minor patient);

2) Date of service;

3) Hospital patient number and name of attending physician;

4) List of services provided;

5) Charges for each service;

6) Any documentation concerning the sexual assault survivor's insurance coverage; and

7) A report outlining each service provided and paid for by the Department and the services available to sexual assault survivors.

d) The hospital outpatient-billing department shall submit the following documentation in order to be considered for reimbursement:

~~1) The Illinois Department of Healthcare and Family Services Sexual Assault Survivor Program Outpatient Hospital Billing Form, completed in its entirety for the initial visit and follow-up visits;~~

1~~2~~) Documentation~~When applicable, the Billing Form with documentation~~ of any insurance payment that has been received, or a copy of the denial from the insurance carrier; and

~~3) A legible copy of the emergency room admission form with physician's notes and orders and nurse's notes; and~~

24) A properly completed Universal Billing (UB) Form.~~Itemized statement of all charges from each provider.~~

e) The health care professional who provides follow-up healthcare, the laboratory that furnishes follow-up services, and the pharmacy that dispenses related prescribed medications to a sexual assault survivor are responsible for submitting the request for reimbursement for follow-up healthcare, laboratory services or pharmacy services to the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services. Health care professionals, ~~and~~ laboratories and pharmacies are ~~entitled~~ to be reimbursed at the Department's reimbursement rates~~for their billed charges. Pharmacies shall be reimbursed at the Department's pharmacy reimbursement rates established in 89 Ill. Adm. Code 140.445 and 140.446~~.

f) Under no circumstances shall a sexual assault survivor be billed for outpatient hospital care, emergency room care, follow-up health care or transportation services when the services are directly related to the sexual assault.

g) A request for reimbursement that is rejected by the Department shall be returned to the requestor and accompanied by an explanation that specifies the basis for rejection. Corrected or amended requests may be resubmitted to the Department within 180 days~~12 months~~ from the date of service pursuant to 89 Ill. Adm. Code 140.20.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Hospital Reimbursement Changes

2) Code Citation: 89 Ill. Adm. Code 152

3)

Section Numbers:	Proposed Action:
152.100	New Section
152.200	Amendment
152.300	New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These administrative rules are authorized by PA 97-689, SMART Act, which mandates adjustments to any rate of reimbursement for services or other payments to hospitals with certain limited exceptions. The Department is also proposing to continue to implement the potentially preventable readmission (PPR) policy as required by SMART. This policy is designed to reduce potentially preventable hospital readmissions, inpatient complications and unnecessary emergency room visits.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemakings currently in effect? Yes, at 36 Ill. Reg. 10410 effective July 1, 2012 through June 30, 2013, and at 37 Ill. Reg. 282, effective January 1, 2013 through June 30, 2013.

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers:	Proposed Action:	*Illinois Register* Citation:
152.150	Amendment	36 Ill. Reg. 7959; May 25, 2012
152.200	Amendment	36 Ill. Reg. 7959; May 25, 2012

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

12) Time, Place, and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

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

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded hospitals

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this Rulemaking was Summarized: January 2013

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 152
HOSPITAL REIMBURSEMENT CHANGES

Section
152.100 Hospital Rate Reductions~~Reimbursement Add-on Adjustments (Repealed)~~
152.150 Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)
152.200 Non-DRG Reimbursement Methodologies
152.250 Appeals (Repealed)
152.300 Adjustment for Potentially Preventable Readmissions

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Sections 12-13 and 14-8 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and Sections 12-13 and 14-8].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2150, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10141, effective June 17, 1994; emergency amendment at 19 Ill. Reg. 6706, effective May 12, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10236, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16272, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9272, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15712, effective November 27, 1996; emergency amendment at 21 Ill. Reg. 9544, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16153, effective November 26, 1997; emergency amendment at 25 Ill. Reg. 218, effective January 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6966, effective May 28, 2001; emergency amendment at 25 Ill. Reg. 16122, effective December 3, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 7309, effective April 29, 2002; emergency amendment at 29 Ill. Reg. 10299, effective July 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19997, effective November 23, 2005; emergency amendment at 30 Ill. Reg. 11847, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18703, effective November 27, 2006; emergency amendment at 32 Ill. Reg. 529, effective January 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 8730, effective May 29, 2008; amended at 35 Ill. Reg. 10114, effective June 15, 2011; emergency amendment at 36 Ill. Reg. 10410, effective July 1, 2012 through June 30, 2013; emergency amendment at 37 Ill. Reg. 282, effective January 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. _____, effective _____.

Section 152.100 Hospital Rate Reductions~~Reimbursement Add-on Adjustments (Repealed)~~

Notwithstanding any provision to the contrary in 89 Ill. Adm. Code 148 and 149 and this Part 152, effective for dates of service on or after July 1, 2012, any rate of reimbursement for services to hospitals or other payments to hospitals shall be reduced by an additional 3.5% from the rates that were otherwise in effect on July 1, 2012, except that those reductions shall not apply to:

a) Rates or payments for hospital services delivered by a hospital defined as a Safety Net Hospital under Section 5-5e.1 of the Illinois Public Aid Code [305 ILCS 5].

b) Rates or payments for hospital services delivered by a hospital defined as a Critical Access Hospital that is an Illinois hospital designated as a critical care hospital by the Department of Public Health in accordance with 42 CFR 485, subpart F.

c) Rates or payments for hospital services delivered by a hospital that is operated by a unit of local government or state university that provides some or all of the non-federal share of the services.

d) Payments authorized under Section 5A-12.4 of the Public Aid Code.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 152.200 Non-DRG Reimbursement Methodologies

a) Notwithstanding any provisions set forth in 89 Ill. Adm. Code 148, the changes described in subsection (b) of this Section will be effective January 18, 1994.

b) All per diem payments calculated under 89 Ill. Adm. Code 148, except for those described in 89 Ill. Adm. Code 148.120, 148.160, 148.170, 148.175 and 148.290(a), (c) and (d), in effect on January 18, 1994, less the portion of such rates attributed by the Department to the cost of medical education, shall remain in effect hereafter.

c) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 148, Hospital Services, and 89 Ill. Adm. Code 146, Subpart A, Ambulatory Surgical Treatment Centers, the changes described in this subsection (c) shall be effective January 1, 2001. Payments for hospital inpatient and outpatient services and ambulatory surgical treatment services shall not exceed charges to the Department. This

payment limitation shall not apply to government owned or operated hospitals or children's hospitals as defined at 89 Ill. Adm. Code 149.50(c)(3). This payment limitation shall not apply to or affect disproportionate share payments as described at 89 Ill. Adm. Code 148.120, payments for outlier costs as described at 89 Ill. Adm. Code 148.130 or payments for Medicaid High Volume Adjustments as described at 89 Ill. Adm. Code 148.290(d).

d) Notwithstanding the provisions of subsections (a), (b) and (c) of this Section, payment for outlier adjustments provided for exceptionally costly stays pursuant to 89 Ill. Adm. Code 148.130 shall be determined using the following factors:

1) For admissions on December 3, 2001 through June 30, 2005, a factor of 0.22 in place of the factor 0.25 described at 89 Ill. Adm. Code 148.130(b)(3)(D).

2) For admissions on or after July 1, 2005 through June 30, 2006, a factor of 0.20 in place of the factor 0.22 as described in subsection (d)(1) of this Section.

3) For admissions on or after July 1, 2006 through December 31, 2007, a factor of 0.18 in place of the factor 0.20 as described in subsection (d)(2) of this Section.

4) For admissions on or after January 1, 2008, a factor of 0.17 in place of the factor 0.18 as described in subsection (d)(3) of this Section.

e) Notwithstanding any other provisions of 89 Ill. Adm. Code 148 or 149 or this Part, long term acute care supplemental per diem rates, as authorized under the Long Term Acute Care Hospital Quality Improvement Transfer Program Act [210 ILCS 155], effective July 1, 2012, shall be the amount in effect as of October 1, 2010. The July 1, 2012 rate will then be subject to the rate reductions detailed in Section 152.100. No new hospital may qualify under the Long Term Acute Care Hospital Quality Improvement Transfer Program Act after June 14, 2012.

f) Notwithstanding any other provisions of 89 Ill. Adm. Code 148 or 149 or this Part, a hospital that is located in a county of the State in which the Department mandates some or all of its beneficiaries of the Medical Assistance Program residing in the county to enroll in a Care Coordination Program, as defined in Section 5-30 of the Public Aid Code, shall not be eligible for any non-claims

based payments not mandated by Article V-A of the Public Aid Code that it would otherwise be qualified to receive, unless the hospital is a Coordinated Care Participating Hospital as defined in 89 Ill. Adm. Code 148.295(g)(5), no later than August 14, 2012 or 60 days after the first mandatory enrollment of a beneficiary in a Coordinated Care Program.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 152.300 Adjustment for Potentially Preventable Readmissions

a) Notwithstanding any provision set forth in 89 Ill. Adm. Code 148 or 149, the changes described in this Section will be effective January 1, 2013.

b) For clean claims received on or after January 1, 2013, rates of payment to hospitals that have an excess number of readmissions, as defined in accordance with the criteria set forth in subsection (d), as determined by a risk adjusted comparison of the actual and targeted number of readmissions in a hospital as described by subsection (e), shall be reduced in accordance with subsection (f).

c) Definitions. For purposes of this Section, the following terms shall be defined as follows:

1) "Potentially Preventable Readmission" or "PPR" shall mean a readmission meeting the readmission criteria in subsection (d) that follows a prior discharge from a hospital within 30 days and that is clinically-related to the prior hospital admission.

2) "Hospital" shall mean a hospital as defined in 89 Ill. Adm. Code 148.25(b).

3) "Clean Claim" shall mean a claim as defined in 42 CFR 447.45(b).

4) "Initial Admission" shall mean an admission to a hospital that has a subsequent readmission in 30 days that is clinically related based on the 3M Corporation's PPR methodology.

5) "Only Admission" shall mean an admission without an associated readmission.

6) "Potentially Preventable Readmission Chain" or "PPR Chain" shall mean an initial admission occurring at a hospital that is followed by one or more clinically-related PPRs. The PPRs may occur at the same hospital or a different hospital.

7) "Qualifying Admission" shall mean the number of PPR chains plus the number of "Only Admissions", but specifically excludes the admissions detailed in subsection (d)(2).

8) "Actual Rate" shall mean the number of PPR chains for a hospital divided by the total number of qualifying admissions for the hospital.

9) "Targeted Rate of Readmissions" shall mean a risk adjusted readmission rate for each hospital that accounts for the severity of illness, APR-DRG, presence of behavioral health issues, and age of patient at the time of discharge preceding the readmission.

10) "Excess Rate of Readmission" shall mean the difference between the actual rate of readmission and the targeted rate of readmission for each hospital.

11) "Behavioral Health", for the purposes of risk adjustments, shall mean an admission that includes a secondary diagnosis of a major behavioral health related condition, including, but not limited to, mental disorders, chemical dependency and substance abuse.

d) Readmission Criteria

1) A readmission is defined as an inpatient readmission within 30 days after discharge that is clinically related to the initial admission, as defined by the PPR software created and maintained by the 3M Corporation, and meets all of the following criteria:

A) The readmission is potentially preventable by the provision of appropriate care consistent with accepted standards, based on the 3M software, in the prior discharge or during the post-discharge follow-up period.

B) The readmission is for a condition or procedure related to the care during the prior discharge or the care during the period immediately following the prior discharge.

C) The readmission is to the same or to any other hospital.

2) Admissions data, for the purposes of determining PPRs, excludes the following circumstances:

A) The discharge was a patient initiated discharge and was Against Medical Advice (AMA) and the circumstances of the discharge and readmission are documented in the patient's medical record.

B) The admission was for the purpose of securing treatment for a major or metastatic malignancy, multiple trauma, burns, neonatal and obstetrical admissions, HIV, alcohol or drug detoxification, non-acute events (rehabilitation admissions), or for hospitals defined in 89 Ill. Adm. Code 149.50(c)(4) admissions with an APR-DRG code other than 740 through 760.

C) The admission was for an individual who was dually eligible for Medicare and Medicaid, or was enrolled in a Managed Care Organization (MCO).

3) Non-events are admissions to a non-acute care facility, such as a nursing home, or an admission to an acute care hospital for non-acute care. Non-events are ignored and are not considered to be readmissions.

4) Planned readmissions, as defined by 3M's team of clinicians, are accounted for in the 3M PPR software as an "Only Admission" and are not considered to be readmissions.

e) Methodology to Determine Excess Readmissions

1) Rate adjustments for State fiscal year 2013 for each hospital shall be based on each hospital's 2010 medical assistance paid claims data for admissions that occurred between July 1, 2009 and June 30, 2010.

2) The targeted rate of readmission for each hospital shall be reduced by the percent necessary to achieve a savings of at least $40 million in State fiscal year 2013 for hospitals other than the "large public hospitals" defined in 89 Ill. Adm. Code 148.458(a).

3) Excess readmissions for each hospital shall be calculated by multiplying a hospital's qualifying admissions by the difference between the actual rate of PPRs and the targeted rate of PPRs, as adjusted in subsection (e)(2).

4) In the event the actual rate of PPRs for a hospital is lower than the targeted rate of PPRs, the excess number of readmissions shall be set at zero.

f) Payment Reduction Calculation

1) An average readmission payment per PPR chain for each hospital shall be calculated by dividing the total medical assistance net liability attributable to the readmissions associated with the hospital's PPR chains (excluding the liability associated with the initial admission) by the number of PPR chains for the hospital.

2) The total excess readmission payments shall equal the average readmission payment per PPR chain, as determined in subsection (f)(1) multiplied by the excess readmissions as determined in subsection (e)(3).

3) The total annual payment reduction for each hospital shall be the lesser of:

A) The total excess readmission payments as determined in subsection (f)(2); or

B) The total medical assistance payments for all hospital admissions, including admissions that were excluded from the PPR analysis, multiplied by 7%.

4) A fiscal year 2013 hospital specific payment reduction factor for each hospital shall be computed as one minus the ratio of 25% of the total annual payment reduction, as determined in subsection (f)(3) divided by 50% of the total estimated medical assistance payments for all hospital clean claims received in fiscal year 2013.

5) The hospital specific payment reduction factor, as determined in subsection (f)(4), shall be applied to the final payment amount for each clean claim received in fiscal year 2013.

6) In order to achieve a savings of 25% of the annual payment reduction for each hospital, the hospital specific payment reduction factor may be adjusted to account for variances between the estimated payments to the hospital and the actual payments to the hospital.

7) For those hospitals that have a payment reduction amount in State fiscal year 2013, a reconciliation of fiscal year 2013 claims will be calculated after January 1, 2014, after all inpatient hospital claims have been received by the Department, to determine how much of the remaining annual payment reduction must be recovered from the hospital. This reconciliation will determine how much of the annual payment reduction was offset in fiscal year 2013 by comparing the fiscal year 2013 rate of readmission to the base year (fiscal year 2010), as determined by subsection (e)(2). In addition, the reconciliation will account for changes in the average readmission payment per PPR chain from fiscal year 2010 to fiscal year 2013.

g) Prior to June 30, 2013, administrative rules will be filed to determine the PPR adjustment methodology for fiscal year 2014 and thereafter.

(Source: Added at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Long Term Care Reimbursement Changes

2) Code Citation: 89 Ill. Adm. Code 153

3)

Section Number:	Proposed Action:
153.126	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These administrative rules are authorized by the SMART Act, which mandates adjustments to rates for the services provided by the long term care facilities identified in this rulemaking.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes, at 36 Ill. Reg. 10416, effective July 1, 2012 through June 30, 2012.

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? Yes, at 36 Ill. Reg. 10416, effective July 1, 2012 through June 30, 2013.

Section Number:	Proposed Action:	Illinois Register Citation:
153.126	Amendment	36 Ill. Reg. 7966; May 25, 2012

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

12) Time, Place, and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Jeanette Badrov
General Counsel

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

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

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Long term care facilities

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this Rulemaking was Summarized: January 2013

The text of the Proposed Amendment is on the next page.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 153
LONG TERM CARE REIMBURSEMENT CHANGES

Section
153.100 Reimbursement for Long Term Care Services
153.125 Long Term Care Facility Rate Adjustments
153.126 Long Term Care Facility Medicaid Per Diem Adjustments
153.150 Quality Assurance Review (Repealed)

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

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

effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005; amended at 29 Ill. Reg. 12452, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 616, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified pursuant to the Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 7817, effective April 7, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10417, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11853, effective July 1, 2006, for a maximum of 150 days; emergency expired November 27, 2006; amended at 30 Ill. Reg. 14315, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 18779, effective November 28, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 6954, effective April 26, 2007; emergency amendment at 32 Ill. Reg. 535, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 4105, effective March 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 7761, effective May 5, 2008; amended at 32 Ill. Reg. 9972, effective June 27, 2008; amended at 33 Ill. Reg. 9347, effective July 1, 2009; emergency amendment at 34 Ill. Reg. 17462, effective November 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 6171, effective March 28, 2011; amended at 35 Ill. Reg. 19524, effective December 1, 2011; emergency amendment at 36 Ill. Reg. 10416, effective July 1, 2012 through June 30, 2013; amended at 36 Ill. Reg. 17405, effective December 1, 2012; amended at 37 Ill. Reg. _____, effective _____.

Section 153.126 Long Term Care Facility Medicaid Per Diem Adjustments

a) Notwithstanding the provisions set forth in Section 153.100, the socio-development component for facilities that are federally defined as Institutions for Mental Disease (see 89 Ill. Adm. Code 145.30) shall be increased by 253 percent beginning with services provided on and after March 1, 2008.

b) Notwithstanding the provisions set forth in Section 153.100, daily residential rates effective on March 1, 2008, for intermediate care facilities for persons with developmental disabilities (ICF/DD), including skilled nursing facilities for persons under 22 years of age (SNF/Ped), for which a patient contribution is required, shall be increased by 2.2 percent.

c) Notwithstanding the provisions set forth in Section 153.100, developmental training rates effective on March 1, 2008 shall be increased by 2.5 percent.

d) Notwithstanding the provisions set forth in Sections 153.100 and 153.125, for

dates of services provided on or after July 1, 2012, the $10 per day per individual payment for individuals with developmental disabilities in nursing facilities, described in 89 Ill. Adm. Code 147.350, shall be eliminated.

e) Notwithstanding the provisions set forth in Sections 153.100 and 153.125, on or after July 1, 2012, nursing facilities not designated as Institutions for Mental Disease shall have rates effective May 1, 2011 (see Section 153.125) adjusted as follows:

1) Individual nursing rates for residents classified in Resource Utilization Groups IV (RUG-IV) PA1, PA2, BA1 and BA2, during the quarter ending March 31, 2012, shall be reduced by 10 percent;

2) Individual nursing rates for residents classified in all other RUG-IV groups shall be reduced by 1.0 percent; and

3) Facility rates for the support and capital components shall be reduced by 1.7 percent.

f) Notwithstanding the provisions set forth in Sections 153.100 and 153.125, on or after July 1, 2012, nursing facilities designated as Institutions for Mental Disease and facilities licensed under the Specialized Mental Health Rehabilitation Act shall have the nursing, socio-development, capital and support components of their reimbursement rate effective May 1, 2011 (see Section 153.125), reduced in total by 2.7 percent.

g) Notwithstanding the provisions set forth in Sections 153.100 and 153.125, on or after July 1, 2012, supported living facilities, as defined in 89 Ill. Adm. Code 146.205, shall have rates reduced by 2.7 percent.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: General Provisions

2) Code Citation: 23 Ill. Adm. Code 2700

3)

Section Numbers:	Proposed Action:
2700.15	Amendment
2700.50	Amendment

4) Statutory Authority: Implements the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) A Complete Description of the Subjects and Issues Involved: The amendment to 2700.50(g)(5)(A) is in response to federal regulation changes. The U.S. Department of Education (USDOE) has provided new guidance to postsecondary institutions regarding what is considered acceptable documentation for verification purposes and now encourages schools to obtain documentation that comes directly from the IRS such as a tax transcript rather than copies of income tax return forms that have been completed by the student and/or parent. In addition the amendment to 2700.15 includes a technical change.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: USDOE website that summarizes all the rules, regulation and guidance for verification: http://www2.ed.gov/policy/highered/reg/hearulemaking/2009/verification.html.

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not require a local government to establish, expand or modify its activities in such a way as to require additional expenditures from local revenues.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

Telephone: 847/948-8500, ext. 2305
Email: lynn.hynes@isac.illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2700
GENERAL PROVISIONS

Section
2700.10 Summary and Purpose
2700.15 Incorporations by Reference
2700.20 Definitions
2700.30 General Institutional Eligibility Requirements
2700.40 General Applicant Eligibility Requirements
2700.50 Determining Applicant Eligibility
2700.55 Use, Security and Confidentiality of Data
2700.60 Audits and Investigations
2700.70 Appeal Procedures
2700.80 Contractual Agreement Requirements

AUTHORITY: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20783, effective January 1, 1986; amended at 11 Ill. Reg. 3167, effective January 29, 1987; amended at 11 Ill. Reg. 14099, effective August 10, 1987; amended at 12 Ill. Reg. 11510, effective July 1, 1988; amended at 13 Ill. Reg. 8626, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1700 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2700 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17854; amended at 14 Ill. Reg. 10538, effective July 1, 1990; amended at 16 Ill. Reg. 11206, effective July 1, 1992; amended at 17 Ill. Reg. 10541, effective July 1, 1993; amended at 18 Ill. Reg. 10282, effective July 1, 1994; amended at 19 Ill. Reg. 8343, effective July 1, 1995; amended at 20 Ill. Reg. 9170, effective July 1, 1996; amended at 21 Ill. Reg. 11066, effective July 18, 1997; amended at 22 Ill. Reg. 11072, effective July 1, 1998; amended at 23 Ill. Reg. 7550, effective July 1, 1999; amended at 24 Ill. Reg. 9121, effective July 1, 2000; amended at 25 Ill. Reg. 8383, effective July 1, 2001; amended at 26 Ill. Reg. 9980, effective July 1, 2002; amended at 27 Ill. Reg. 10320, effective July 1, 2003; amended at 29 Ill. Reg. 9884, effective July 1, 2005; amended at 30 Ill. Reg. 11600, effective July 1, 2006; amended at 31 Ill. Reg. 9478, effective July 1, 2007; amended at 32 Ill. Reg.

10269, effective July 1, 2008; amended at 33 Ill. Reg. 9742, effective July 1, 2009; amended at 34 Ill. Reg. 8543, effective July 1, 2010; amended at 37 Ill. Reg. _____, effective _____.

Section 2700.15 Incorporations by Reference

a) The Commission incorporates by reference 34 CFR 85, 237, 600, 653, 668, 674, 675, 676, 682 and 690 (October 2009). No incorporation by reference in this Section includes any later amendment or edition beyond the date stated. The Code of Federal Regulations is available online ~~at: www.gpoaccess.gov~~.

b) Copies of the appropriate material are available for inspection at the Illinois Student Assistance Commission offices at:

1755 Lake Cook Road, Deerfield IL 60015-5209

500 West Monroe, Springfield IL 62704-1876

100 West Randolph, Suite 3-200, Chicago IL 60601-3219

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 2700.50 Determining Applicant Eligibility

a) The evaluation of applicant eligibility is the responsibility of both the institution and ISAC.

b) No applicant is announced eligible for assistance by ISAC unless the application establishes prima facie eligibility. ISAC consults with other appropriate state and federal agencies in the process of reviewing application data. Such agencies include, but are not limited to, the U.S. Department of Education (ED), U.S. Internal Revenue Service (IRS), U.S. Citizenship and Immigration Services Bureau (USCIS), Illinois Department of Healthcare and Family Services, Illinois Department of Revenue, and Illinois Department of Children and Family Services.

c) When requesting payment for ISAC gift assistance programs, the postsecondary institution is certifying that the applicants are eligible for the assistance. If an institution subsequently determines a student is no longer eligible for all or part of

the awarded assistance, the institution must inform ISAC and submit the appropriate refund within 60 days after the receipt of payment or the end of a term, whichever is later.

d) When requesting payment of benefits, institutions shall certify (in accordance with ISAC's rules or federal regulations) whether an applicant is eligible based upon enrollment in a particular academic program.

e) If an institution erroneously certifies an applicant to be eligible for ISAC gift assistance programs, ISAC will recover the erroneous payment from the institution. Any student who obtained ISAC-administered funds by submitting inaccurate information to an institution must tender restitution to the institution to be eligible for ISAC assistance at that institution.

f) If an applicant is selected for verification in conjunction with federal student assistance, that applicant shall also be verified for ISAC-administered programs. A selected applicant must be verified for ISAC programs even if the applicant is ineligible for federal student assistance.

g) Because ED verification procedures do not include procedures for verifying a student as a resident of Illinois, the following provisions shall be followed by the institution.

1) Residency status shall be verified if the institution has any information that indicates the applicant may not be a resident of Illinois.

2) Residency status shall be verified for each applicant who is selected for verification and has changed dependency status to become an independent student.

3) Residency verification shall not be required for an applicant who received payment of a MAP award during the previous academic year.

4) Residency verification shall not be required for an applicant who was enrolled in an ISAC-approved MAP institution or an ISAC-approved Illinois high school (see Section 2700.30) for the preceding consecutive 12 months prior to the start of the academic year for which assistance is requested.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

5) Data from one or more of the documents listed below may provide proof that an applicant (or parent) is an Illinois resident, as defined in Section 2700.20. For an independent student applicant, the dates recorded on the documents must indicate the applicant has resided in Illinois for the relevant 12 continuous, full months.

A) A valid State of Illinois tax return or federal tax transcript~~income tax return~~

B) Illinois high school or college transcript

C) Illinois driver's license

D) Utility or rent bills in the applicant's (or parent's) name

E) Illinois auto registration card

F) Residential lease in the applicant's (or parent's) name

G) Wage and tax statements (IRS Form W-2)

H) Statement of benefits history from the Illinois Department of Healthcare and Family Services

I) State of Illinois identification card issued by the Secretary of State

J) Statement of benefits from the Illinois Department of Employment Security

K) Statement of benefits from the Social Security Administration

L) Illinois voter's registration card

M) Property tax bill

N) IRS Form 1099 − Miscellaneous Income Statements

6) If an applicant is a resident of Illinois, but the institution cannot document this fact, the applicant or the institution may verify residency through

ISAC's appeal process. (See Section 2700.70.)

h) Institutions may request first term payment even though verification is not yet complete. If, after verification, an ISAC payment adjustment is appropriate, institutions must submit the appropriate refund. If verification is not completed within 60 days after the conclusion of the regular school year, the institution shall return the first term payment to ISAC. For other than the first term of eligibility in an academic year, the verification process must be completed before the institution may request payment.

i) When an institution adjusts an applicant's eligibility pursuant to Title IV, Part F, of the Higher Education Act of 1965, as amended (20 USC 1087kk et seq.), the institution shall retain documentation that demonstrates the appropriateness of the adjustment.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Illinois National Guard (ING) Grant Program

2) Code Citation: 23 Ill. Adm. Code 2730

3) Section Number: 2730.40 — Proposed Action: Amendment

4) Statutory Authority: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking deletes language referencing institutional certification in Section 2730.40 as institutional certification is already required by 23 Ill. Admin. Code 2700.50(c) and (d).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not require a local government to establish, expand or modify its activities in such a way as to require additional expenditures from local revenues.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Telephone: 847/948-8500, ext. 2305
Email: lynn.hynes@isac.illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2730
ILLINOIS NATIONAL GUARD (ING) GRANT PROGRAM

Section
2730.10 Summary and Purpose
2730.20 Applicant Eligibility
2730.30 Program Procedures
2730.40 Institutional Procedures

AUTHORITY: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)].

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; rules repealed at 6 Ill. Reg. 8239, effective June 30, 1982; new rules adopted at 6 Ill. Reg. 8413, effective June 30, 1982; codified at 7 Ill. Reg. 10877; amended at 8 Ill. Reg. 17016, effective September 5, 1984; amended at 9 Ill. Reg. 20827, effective January 1, 1986; amended at 11 Ill. Reg. 3202, effective January 29, 1987; amended at 12 Ill. Reg. 11531, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1730 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2730 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17857; amended at 14 Ill. Reg. 10567, effective July 1, 1990; amended at 16 Ill. Reg. 11254, effective July 1, 1992; amended at 17 Ill. Reg. 10563, effective July 1, 1993; amended at 18 Ill. Reg. 10303, effective July 1, 1994; amended at 20 Ill. Reg. 9187, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11119, effective July 18, 1997; amended at 22 Ill. Reg. 11100, effective July 1, 1998; amended at 24 Ill. Reg. 9148, effective July 1, 2000; amended at 25 Ill. Reg. 8406, effective July 1, 2001; amended at 26 Ill. Reg. 10013, effective July 1, 2002; amended at 27 Ill. Reg. 10338, effective July 1, 2003; amended at 29 Ill. Reg. 9904, effective July 1, 2005; amended at 30 Ill. Reg. 11623, effective July 1, 2006; amended at 32 Ill. Reg. 10305, effective July 1, 2008; amended at 36 Ill. Reg. 9408, effective July 1, 2012; amended at 37 Ill. Reg. _____, effective _____.

Section 2730.40 Institutional Procedures

a) The institution must establish a qualified applicant's initial eligibility before requesting payment from ISAC. A valid Illinois National Guard Grant eligibility letter may be used for this purpose.

ILLINOIS STUDENT ASSISTANCE COMMISSION

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~~b) When submitting payment requests, the institution is certifying that the recipient meets the grade point average requirements of Section 2730.20(d).~~

b)~~c)~~ Institutions must report the total number of hours for which payment is being requested (including credit and noncredit hours) so that ISAC can accurately track the recipient's use of eligibility units.

c)~~d)~~ Payment information will be sent each term to the institution no earlier than the application deadline date for that term. Payment claims must be submitted no later than 30 calendar days after payment information has been sent to the institution by ISAC. Supplemental payment claims must be submitted to ISAC no later than 45 calendar days after the original payment information was sent to the institution with the exception of summer term supplements which must be submitted by the same deadline as the original payment claim for summer term. All payment claims received by ISAC after the designated dates will be paid or prorated during the fiscal lapse period (July 1 through August 31) following the conclusion of the fiscal year. To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests except for summer term must be received by ISAC no later than July 1. Summer term payment requests must be received no later than July 31.

d)~~e)~~ Claims will be paid as follows:

1) first semester and first quarter claims received by the designated deadline date will be paid, or prorated if funding is insufficient to pay all claims in full;

2) if funds remain after first semester and first quarter claims are paid, then second semester and second and third quarter claims received by the designated deadline date will be paid, or prorated if funds remaining are insufficient to pay all such claims in full;

3) if funds still remain after the preceding claims are paid, summer term claims received by the designated deadline date will be paid, or prorated if remaining funds are insufficient to pay all summer claims in full;~~ and~~

4) in the event that funds are not exhausted by summer term payments, claims received after the designated deadline dates will be paid or prorated; and~~.~~

5) timely~~Timely~~ claims for the difference between in-district/state and out-of-district/state tuition for recipients who do not qualify for chargebacks will be considered for payment at the same time, and in the same priority order, as all other timely claims, in accordance with the provisions of this subsection (d).

e)~~f)~~ Payments on behalf of a recipient will be made to only one institution per term. For any institution that has a concurrent registration opportunity, the same payment policy will be in effect as that used in the Monetary Award Program. (See: 23 Ill. Adm. Code 2735.40(h).)

f)~~g)~~ Institutions are required to reconcile payments, both payment data and actual funds, received through ING and, as applicable, submit all necessary corrections to student records on a timely basis.

1) Within 30 days after and including the date of receiving payment of any ING funds claimed pursuant to this Section, the institution shall credit the ING funds against the recipients' tuition and eligible fee charges for the appropriate term.

2) Within 30 days after the end of an academic term during which ING funds are credited to recipients' tuition and eligible fee charges, institutions must reconcile data received from ISAC as a result of payment claim processing against the eligibility status throughout that term for each student for whom payment claims were made. In reconciling the data with student eligibility, an institution must determine whether:

A) The amount of the claim applied to a student's tuition and eligible fee charges exceeded the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

B) The amount of the claim applied to a student's tuition and eligible fee charges was less than the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

C) The amount of the claim applied to a student's tuition and eligible fee charges equaled the amount that the student was eligible to receive.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

3) Any institution that determines that the amount of a claim applied to a student's tuition and mandatory fee charges either exceeded the amount that the student was eligible to receive or was less than that amount must submit an accounting of all such adjustments to ISAC within 30 days following the end of the applicable term.

4) For any claims determined to exceed the amount that the student was eligible to receive, the amount in excess paid for the claims shall be remitted to ISAC within 45 days after the end of the applicable term unless the payment is received after the end of the regular school year. If the payment of claims is made after the end of the regular school year, the institution shall have 60 days following receipt of the payment to complete reconciliation and remit any funds due to ISAC.

5) Award payments made in the name of one recipient cannot be applied to another recipient at the same institution. A refund of the payment made must be submitted to ISAC, and a supplemental request for payment must be processed for the proper recipient.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Grant Program for Dependents of Correctional Officers

2) Code Citation: 23 Ill. Adm. Code 2731

3) Section Number: 2731.40 — Proposed Action: Amendment

4) Statutory Authority: Implementing Section 60 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/60 and 20(f)]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking will delete language referencing institutional certification in Section 2731.40 as institutional certification is already required by 23 Ill. Admin. Code 2700.50(c) and (d).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3] and does not require a local government to establish, expand or modify its activities in such a way as to require additional expenditures from local revenues.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Telephone: 847/948-8500, ext. 2305
Email: lynn.hynes@isac.illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2731
GRANT PROGRAM FOR DEPENDENTS OF CORRECTIONAL OFFICERS

Section
2731.10 Summary and Purpose
2731.20 Applicant Eligibility
2731.30 Program Procedures
2731.40 Institutional Procedures

AUTHORITY: Implementing Section 60 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/60 and 20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20780, effective January 1, 1986; transferred from Chapter IX, 23 Ill. Adm. Code 1731 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2731 (Illinois Student Assistance Commission) pursuant to P.A. 86-169, effective July 1, 1989, at 13 Ill. Reg. 17853; amended at 14 Ill. Reg. 10534, effective July 1, 1990; amended at 17 Ill. Reg. 10559, effective July 1, 1993; amended at 18 Ill. Reg. 10299, effective July 1, 1994; amended at 20 Ill. Reg. 10183, effective July 15, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11100, effective July 18, 1997; amended at 30 Ill. Reg. 11632, effective July 1, 2006; amended at 35 Ill. Reg. 12374, effective July 15, 2011; amended at 36 Ill. Reg. 9414, effective July 1, 2012; amended at 37 Ill. Reg. _____, effective _____.

Section 2731.40 Institutional Procedures

a) The institution shall certify the applicant's award amount within the time frame requested by ISAC, which shall be no sooner than 30 days unless a more rapid response is necessary to expend appropriated funds prior to the end of the academic year.

b) Institutional Packaging of Assistance:

1) If the recipient receives other assistance targeted specifically for tuition and fees, the combined assistance shall not exceed the total tuition and fee expenses incurred by the student; and if it does, the institution shall reduce one of the awards accordingly;

2) notwithstanding the provisions of other ISAC-administered programs, the total amount of a student's gift assistance may not exceed the student's cost of attendance for that institution. Any excess gift assistance is considered an overaward, and the institution is required to notify ISAC to reduce this grant and/or other gift assistance to prevent such an overaward; and

3) if the recipient is eligible for assistance under MAP, the recipient may not be eligible for a full MAP grant because the grant for Dependents of Correctional Officers must be factored into the financial aid package prior to receiving MAP gift assistance. The institution, however, may request a MAP grant to finance tuition and mandatory fee expenses not paid by this program.

c) Institutional Processing of Payments:

~~1) When submitting payment requests, the institution shall verify that the recipient meets the requirements of Section 2731.20(a)(3) and (4), Applicant Eligibility.~~

1)~~2)~~ Within 30 days after and including the date of receiving payment, the institution shall credit the award toward the recipient's tuition and mandatory fee charges for the appropriate term.

2)~~3)~~ Institutions are required to reconcile payments, both payment data and actual funds, received through the Grant Program for Dependents of Correctional Officers and, as applicable, submit all necessary corrections to student records on a timely basis.

3)~~4)~~ Within 30 days after the end of an academic term during which the Grant Program for Dependents of Correctional Officers funds are credited to recipient's tuition and eligible fee charges, institutions must reconcile data received from ISAC as a result of payment claim processing against the eligibility status throughout that term for each student for whom payment claims were made. In reconciling the data with student eligibility, an institution must determine whether:

A) The amount of the claim applied to a student's tuition and eligible fee charges exceeded the amount that the student was eligible to

receive for any reason, including as a result of billing errors or retroactive withdrawals; or

B) The amount of the claim applied to a student's tuition and eligible fee charges was less than the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

C) The amount of the claim applied to a student's tuition and eligible fee charges equaled the amount that the student was eligible to receive.

4)~~5)~~ Any institution that determines that the amount of a claim applied to a student's tuition and mandatory fee charges either exceeded the amount that the student was eligible to receive or was less than that amount must submit an accounting of all such adjustments to ISAC within 30 days following the end of the applicable term.

5)~~6)~~ For any claims determined to exceed the amount that the student was eligible to receive, the amount in excess paid for the claims shall be remitted to ISAC within 45 days after the end of the applicable term unless the payment is received after the end of the applicable term. If the payment of claims is made after the end of the applicable term, the institution shall have 60 days following receipt of the payment to complete reconciliation and remit any funds due to ISAC.

6)~~7)~~ Award payments made in the name of one recipient cannot be applied to another recipient at the same institution. A refund of the payment must be submitted to ISAC and a supplemental request must be made and processed for the proper recipient.

7)~~8)~~ If the institution does not submit refunds as required, ISAC will deduct outstanding refunds from subsequent payments to the institution.

8)~~9)~~ To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests except for summer term must be received by ISAC no later than July 1. Summer term payment requests must be received no later than July 31.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 37 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Grant Program for Dependents of Police or Fire Officers

2) Code Citation: 23 Ill. Adm. Code 2732

3) Section Number: 2732.40 — Proposed Action: Amendment

4) Statutory Authority: Implementing Section 55 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/55 and 20(f)]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking deletes language referencing institutional certification in Section 2732.40 as institutional certification is already required by 23 Ill. Adm. Code 2700.50(c) and (d).

7) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

8) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3] and does not require a local government to establish, expand or modify its activities in such a way as to require additional expenditures from local revenues.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, Illinois 60015

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Telephone: 847/948-8500, ext. 2305
Email: lynn.hynes@isac.illinois.gov

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of Professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2732
GRANT PROGRAM FOR DEPENDENTS OF POLICE OR FIRE OFFICERS

Section
2732.10 Summary and Purpose
2732.20 Applicant Eligibility
2732.30 Program Procedures
2732.40 Institutional Procedures

AUTHORITY: Implementing Section 55 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/55 and 20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20873, effective January 1, 1986; amended at 11 Ill. Reg. 3239, effective January 29, 1987; transferred from Chapter IX, 23 Ill. Adm. Code 1732 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2732 (Illinois Student Assistance Commission) pursuant to P.A. 86-169, effective July 1, 1989, at 13 Ill. Reg. 17866; amended at 14 Ill. Reg. 10585, effective July 1, 1990; amended at 17 Ill. Reg. 10620, effective July 1, 1993; amended at 18 Ill. Reg. 10342, effective July 1, 1994; amended at 20 Ill. Reg. 10191, effective July 15, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11090, effective July 18, 1997; amended at 30 Ill. Reg. 11639, effective July 1, 2006; amended at 35 Ill. Reg. 12378, effective July 15, 2011; amended at 36 Ill. Reg. 9420, effective July 1, 2012; amended at 37 Ill. Reg. _____, effective _____.

Section 2732.40 Institutional Procedures

a) The institution shall certify the applicant's award amount within the time frame requested by ISAC, which shall be no sooner than 30 days unless a more rapid response is necessary to expend appropriated funds prior to the end of the academic year.

b) Institutional Packaging of Assistance:

1) If the recipient receives other assistance targeted specifically for tuition and fees, the combined assistance shall not exceed the total tuition and fee expenses incurred by the student; if it does, the institution shall reduce one

of the awards accordingly;

2) notwithstanding the provisions of other ISAC-administered programs, the total amount of a student's gift assistance may not exceed the student's cost of attendance at that institution. Any excess gift assistance is considered an overaward and the institution is required to notify ISAC to reduce this grant and/or other gift assistance to prevent such an overaward; and

3) if the recipient is eligible for assistance under MAP, the recipient may not be eligible for a full MAP grant because the police or fire officer grant must be factored into the financial aid package prior to receiving MAP gift assistance. The institution, however, may request a MAP grant to finance tuition and mandatory fee expenses not paid by this program.

c) Institutional Processing of Payments:

~~1) When submitting payment requests, the institution shall verify that the recipient meets the requirements of Section 2732.20(a)(3) and (4), Applicant Eligibility.~~

1)~~2)~~ Within 30 days after and including the date of receiving payment, the institution shall credit the award toward the recipient's tuition and mandatory fee charges for the appropriate term.

2)~~3)~~ Institutions are required to reconcile payments, both payment data and actual funds, received through the Grant Program for Dependents of Police or Fire Officers and, as applicable, submit all necessary corrections to student records on a timely basis.

3)~~4)~~ Within 30 days after the end of an academic term during which the Grant for Dependents of Police or Fire Officers funds are credited to recipient's tuition and mandatory fee charges, institutions must reconcile data received from ISAC as a result of payment claim processing against the eligibility status throughout that term for each student for whom payment claims were made. In reconciling the data with student eligibility, an institution must determine whether:

A) The amount of the claim applied to a student's tuition and mandatory fee charges exceeded the amount that the student was

eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

B) The amount of the claim applied to a student's tuition and mandatory fee charges was less than the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

C) The amount of the claim applied to a student's tuition and mandatory fee charges equaled the amount that the student was eligible to receive.

4)~~5)~~ Any institution that determines that the amount of a claim applied to a student's tuition and mandatory fee charges either exceeded the amount that the student was eligible to receive or was less than that amount must submit an accounting of all such adjustments to ISAC within 30 days following the end of the applicable term.

5)~~6)~~ For any claims determined to exceed the amount that the student was eligible to receive, the amount in excess paid for the claims shall be remitted to ISAC within 45 days after the end of the applicable term unless the payment is received after the end of the applicable term. If the payment of claims is made after the end of the applicable term, the institution shall have 60 days following receipt of the payment to complete reconciliation and remit any funds due to ISAC.

6)~~7)~~ Award payments made in the name of one recipient cannot be applied to another recipient at the same institution. A refund of the payment must be submitted to ISAC and a supplemental request must be made and processed for the proper recipient.

7)~~8)~~ If the institution does not submit refunds as required, ISAC will deduct outstanding refunds from subsequent payments to the institution.

8)~~9)~~ To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests except for summer term must be received by ISAC no later than July 1. Summer term payment requests must be received no later than July 31.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 37 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Illinois Veteran Grant (IVG) Program

2) Code Citation: 23 Ill. Adm. Code 2733

3) Section Number: 2733.40 — Proposed Action: Amendment

4) Statutory Authority: Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking deletes language referencing institutional certification in Section 2733.40 as institutional certification is already required by 23 Ill. Adm. Code 2700.50(c) and (d).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not require a local government to establish, expand or modify its activities in such a way as to require additional expenditures from local revenues.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Telephone: 847/948-8500, ext. 2305
Email: lynn.hynes@isac.illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of Professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2733
ILLINOIS VETERAN GRANT (IVG) PROGRAM

Section
2733.10 Summary and Purpose
2733.20 Applicant Eligibility
2733.30 Program Procedures
2733.40 Institutional Procedures

AUTHORITY: Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)].

SOURCE: Emergency rule adopted at 10 Ill. Reg. 14322, effective August 20, 1986 for a maximum of 150 days; emergency expired January 16, 1987; adopted at 11 Ill. Reg. 3207, effective January 29, 1987; amended at 12 Ill. Reg. 11536, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1733 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2733 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17858; amended at 14 Ill. Reg. 10571, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 15613, effective October 11, 1991, for a maximum of 150 days; emergency expired March 9, 1992; emergency amendment at 15 Ill. Reg. 18778, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 6880, effective April 14, 1992; amended at 16 Ill. Reg. 11261, effective July 1, 1992; amended at 17 Ill. Reg. 10570, effective July 1, 1993; amended at 18 Ill. Reg. 10309, effective July 1, 1994; amended at 20 Ill. Reg. 9200, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11139, effective July 18, 1997; amended at 22 Ill. Reg. 11114, effective July 1, 1998; amended at 23 Ill. Reg. 7575, effective July 1, 1999; amended at 24 Ill. Reg. 9166, effective July 1, 2000; amended at 25 Ill. Reg. 8418, effective July 1, 2001; amended at 26 Ill. Reg. 10020, effective July 1, 2002; amended at 27 Ill. Reg. 10342, effective July 1, 2003; emergency amendment at 28 Ill. Reg. 12932, effective September 15, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2462, effective February 1, 2005; amended at 29 Ill. Reg. 9912, effective July 1, 2005; amended at 30 Ill. Reg. 11646, effective July 1, 2006; amended at 32 Ill. Reg. 10313, effective July 1, 2008; amended at 36 Ill. Reg. 9426, effective July 1, 2012; amended at 37 Ill. Reg. _____, effective _____.

Section 2733.40 Institutional Procedures

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

a) If a student is eligible for both an IVG and a Monetary Award Program (MAP) grant, the IVG benefits must be used first. A student cannot decline IVG benefits in favor of using MAP.

b) A notice of eligibility from ISAC must be used by the institution to establish a qualified applicant's initial eligibility.

c) Institutions shall submit a payment request to ISAC. ~~When submitting payment requests, the institution is certifying that the qualified applicant meets the grade point requirements of Section 2733.20(d).~~

d) Institutions must report the total number of hours for which payment is being requested (including credit and noncredit hours) so that ISAC can accurately track the recipient's use of eligibility units.

e) The deadlines for submission of complete payment requests shall be September 15 for summer terms; January 15 for first term; and May 25 for second semester/second and third quarter. All claims, including supplemental claims, must be received by ISAC no later than July 1.

f) The reimbursement to institutions for Illinois Veteran Grants is contingent upon available funding. Should General Assembly appropriations be insufficient to pay all claims, institutions will be reimbursed in accordance with this subsection:

1) summer term claims received by the deadline date designated in subsection (e) will be paid, or prorated if funding is insufficient to pay all claims in full;

2) if funds remain after summer term claims are paid, first semester and first quarter claims received by the designated deadline date will be paid, or prorated if funding is insufficient to pay all claims in full;

3) if funds remain after first semester and first quarter claims are paid, then second semester/second and third quarter claims received by the designated deadline date will be paid, or prorated if funds remaining are insufficient to pay all such claims in full;

4) if funds remain after second semester/second and third quarter claims are

paid, claims received by ISAC after the designated deadline dates will be paid or prorated; and

5) timely claims for the difference between in-district/state and out-of-district/state tuition for recipients who do not qualify for chargebacks will be considered for payment at the same time, and in the same priority order, as all other timely claims, in accordance with the provisions of this subsection (f).

g) Institutions are required to reconcile payments, both payment data and actual funds, received through IVG and, as applicable, submit all necessary corrections to student records on a timely basis.

1) Within 30 days after and including the date of receiving payment of any IVG funds claimed pursuant to this Section, the institution shall credit the IVG funds against the recipient's tuition and mandatory fee charges for the appropriate term.

2) Within 30 days after the end of an academic term during which IVG funds are credited to recipient's tuition and mandatory fee charges, institutions must reconcile data received from ISAC as a result of payment claim processing against the eligibility status throughout that term for each student for whom payment claims were made. In reconciling the data with student eligibility, an institution must determine whether:

A) The amount of the claim applied to a student's tuition and mandatory fee charges exceeded the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

B) The amount of the claim applied to a student's tuition and mandatory fee charges was less than the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

C) The amount of the claim applied to a student's tuition and mandatory fee charges equaled the amount that the student was eligible to receive.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

3) Any institution that determines that the amount of a claim applied to a student's tuition and mandatory fee charges either exceeded the amount that the student was eligible to receive or was less than that amount must submit an accounting of all such adjustments to ISAC within 30 days following the end of the applicable term.

4) For any claims determined to exceed the amount that the student was eligible to receive, the amount in excess paid for the claims shall be remitted to ISAC within 45 days after the end of the applicable term unless the payment is received after the end of the applicable term. If the payment of claims is made after the end of the applicable term, the institution shall have 60 days following receipt of the payment to complete reconciliation and remit any funds due to ISAC.

5) Award payments made in the name of one recipient cannot be applied to another recipient at the same institution. A refund of the payment made must be submitted to ISAC, and a supplemental request for payment must be processed for the proper recipient.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Monetary Award Program (MAP)

2) Code Citation: 23 Ill. Adm. Code 2735

3)

Section Numbers:	Proposed Action:
2735.30	Amendment
2735.40	Amendment

4) Statutory Authority: Implementing Section 35 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/35 and 20(f)]

5) A Complete Description of the Subjects and Issues Involved: Section 2735.30(q) modifies previous changes to limit the number of times MAP benefits can be used for repeat courses and provides clarity as well as a closer correlation to federal regulations (34 CFR 668.2). It also deletes language referencing institutional certification in Section 2735.40 as institutional certification is already required by 23 Ill. Adm. Code 2700.50(c) and (d).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will these proposed amendments replace an emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not require a local government to establish, expand or modify its activities in such a way as to require additional expenditures from local revenues.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Lynn Hynes

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015

Telephone: 847/948-8500, ext. 2305
Email: lynn.hynes@isac.illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2735
MONETARY AWARD PROGRAM (MAP)

Section
2735.10 Summary and Purpose
2735.20 Applicant Eligibility
2735.30 Program Procedures
2735.40 Institutional Procedures
2735.50 Advance Payment Option
2735.60 Contractual Agreement Requirements (Repealed)
2735.APPENDIX A Advance Payment Formula

AUTHORITY: Implementing Section 35 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/35 and 20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20857, effective January 1, 1986; amended at 11 Ill. Reg. 3225, effective January 29, 1987; amended at 11 Ill. Reg. 14134, effective August 10, 1987; amended at 12 Ill. Reg. 11546, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1735 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2735 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17864; amended at 14 Ill. Reg. 7242, effective May 1, 1990, amended at 16 Ill. Reg. 11296, effective July 1, 1992; emergency amendment at 16 Ill. Reg. 19237, effective November 23, 1992, for a maximum of 150 days; emergency expired on April 22, 1993; emergency amendment at 17 Ill. Reg. 6672, effective April 15, 1993, for a maximum of 150 days; emergency expired on September 18, 1993; amended at 17 Ill. Reg. 10596, effective July 1, 1993; amended at 17 Ill. Reg. 22576, effective January 1, 1994; amended at 19 Ill. Reg. 8369, effective July 1, 1995; amended at 20 Ill. Reg. 9227, effective July 1, 1996; old Part repealed, new Part adopted at 21 Ill. Reg. 11184, effective July 18, 1997; amended at 22 Ill. Reg. 11149, effective July 1, 1998; amended at 23 Ill. Reg. 7592, effective July 1, 1999; amended at 24 Ill. Reg. 9187, effective July 1, 2000; amended at 25 Ill. Reg. 8424, effective July 1, 2001; amended at 26 Ill. Reg. 10024, effective July 1, 2002; amended at 27 Ill. Reg. 10349, effective July 1, 2003; amended at 28 Ill. Reg. 10043, effective July 15, 2004; amended at 29 Ill. Reg. 9920, effective July 1, 2005; amended at 30 Ill. Reg. 11654, effective July 1, 2006; amended at 36 Ill. Reg. 9432, effective July 1, 2012; amended at 37 Ill. Reg. _____, effective _____.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Section 2735.30 Program Procedures

a) An application for a MAP grant must be submitted annually. An applicant uses the form which the United States Department of Education (ED) designates as an application form for federal student financial aid. (See Section 483 of the Higher Education Act of 1965, as amended (20 USCA 1070a).)

b) Applicants, spouses and the parents of applicants are required to submit financial information on the application that~~which~~ will be kept confidential, regarding income, asset value and non-taxable income (e.g., Temporary Assistance for Needy Families, public aid, veterans' or Social Security benefits).

c) Priority Consideration Dates
In order to receive priority consideration for a full year award, an application from a student who had applied for a MAP grant for the previous regular school year must have a FAFSA receipt date of no later than August 15 of, or immediately prior to, the regular school year for which the application is being made. In order to receive priority consideration for a full year award, an application from a student who had not applied for a MAP grant for the previous regular school year must have a FAFSA receipt date of no later than September 30 of the regular school year for which the application is being made.

d) Priority Processing Guidelines

1) Students who file applications will be considered for full or partial year MAP awards based on available funds and the following:

A) For applications with a FAFSA receipt date of no later than August 15 of or preceding the regular school year for which assistance is being requested, students who had not applied for a MAP award the previous regular school year and students who did apply for a MAP award the previous regular school year will both be considered for full year awards;

B) For applications with a FAFSA receipt date of August 16 or later, but no later than September 30, students who had not applied for MAP awards the previous regular school year will be considered for full year awards; while students who did apply for a MAP award the previous regular school year will be considered for

second semester or second and third quarter awards only;

C) For applications with a FAFSA receipt date of October 1 or later, and until the date of final suspension of award announcements for that regular school year, all students will be considered for second semester/second and third quarter awards only.

2) During the time periods referenced above, awards will be announced concurrently, both to students who had not applied for a MAP award the previous regular school year and to students who did apply for a MAP award during the previous regular school year. Award announcements will be made concurrently through the date of suspension of award announcements.

3) If it becomes necessary to suspend the processing of award announcements in order to remain within appropriated funding levels, the suspension will be applied concurrently to students who had not applied for a MAP award for the previous regular school year and to students who did apply for a MAP award the previous regular school year.

4) Corrections to applications received prior to the final suspension of award announcements will be processed and announced up to two months after the final suspension date or until the completion of the processing cycle, whichever comes first.

e) Students eligible for second semester/second and third quarter awards who have a FAFSA receipt date of August 16 or later and who are graduating mid-year may request that their second semester/second or third quarter award be used for first semester/quarter.

f) To the extent necessary to administer the program within the limits of the MAP appropriation, the Commission may adjust the priority consideration dates and the priority processing guidelines established by this Section.

g) When an application is incomplete, a notice will be sent to the applicant. The applicant then has an opportunity to furnish the missing information; however, depending on processing schedules, the applicant may be considered only for subsequent term awards.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

h) Applicants are informed that they are MAP recipients on the basis of application data supplied to ISAC. ISAC will recalculate awards for those applicants whose applications are not in basic agreement with their financial records, after receipt of corrected data. All announced MAP recipients are subject to verification.

i) The Commission shall annually establish and publicize guidelines for the release of or increase in MAP awards as additional funds become available.

j) MAP grants are applicable only toward tuition and mandatory fees. MAP grants may not exceed the:

1) maximum award specified at 110 ILCS 947/35(c); or

2) institution's tuition and mandatory fee charges on file with ISAC.

k) The maximum MAP grant available to a recipient attending a public community college is limited to the in-district tuition and mandatory fees. It is the recipient's responsibility to make arrangements to pay the additional costs incurred as an out-of-district student.

l) For each credit hour of MAP benefits paid on behalf of the recipient, the recipient will be assessed one MAP paid credit hour toward his or her maximum usage. For each credit hour used, payment will be made to the school on behalf of the recipient in an amount equal to $^{1}/_{15}$ of the student's calculated term award amount, with a minimum of three hours and a maximum of 15 hours paid per term.

m) A recipient may receive the equivalent of 135 semester credit hours of MAP benefits paid. Eligibility may be extended for one additional term if the recipient has accumulated fewer than 135 MAP paid credit hours but does not have enough credit hours of payment remaining for the number of hours for which he or she is enrolled for the term.

n) A recipient may use no more than 75 MAP paid credit hours while enrolled at the freshman or sophomore level. Eligibility may be extended for one additional term at the freshman or sophomore level if the recipient has accumulated fewer than 75 MAP paid credit hours, but does not have enough credit hours of payment remaining for the number of hours for which he or she is enrolled for the term. Upon progressing to the junior level or above, the recipient may use the remaining balance of MAP paid credit hours, up to the 135 credit hour maximum.

o) The MAP grant shall not pay for academic programs intended to prepare a student for the General Educational Development (GED) test or for a high school diploma. (See, e.g., 23 Ill. Adm. Code 215.)

p) The MAP grant shall not pay for audit courses, credit-by-examination and/or life experience, graduate-level courses leading to a degree above the baccalaureate level, or noncredit course offerings (except qualifying remedial courses). Remedial courses shall be eligible for MAP payment provided the student has been accepted into an eligible degree/certificate program and is taking the remedial courses as part of that program. Payment shall not be made for more than the equivalent of one year of remedial course work (i.e., 30 semester hours or 45 quarter hours).

q) The MAP grant may be used no more than once to pay for a recipient's enrollment in courses for which the student has previously earned academic credit or a passing grade.~~Repeat courses shall be eligible for MAP payment unless the student has previously reenrolled in a course for which a MAP payment is to be made.~~

r) If a recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive MAP grant payment for tuition and mandatory fee costs incurred up to the term award provided the institution's tuition refund policy indicates the recipient has incurred charges in the amount of the claim.

s) MAP paid credit hours are assessed to a recipient whenever MAP funds are disbursed on behalf of the recipient.

t) MAP grant payment is subject to the limits of dollars appropriated to ISAC by the General Assembly.

u) It is the responsibility of MAP recipients to gain admission to approved Illinois institutions of higher learning. Illinois institutions of higher learning are not obligated to admit MAP recipients. The institution is obligated to provide MAP recipients the same facilities and instruction, on the same terms, as are provided to other students.

v) If a recipient's academic program involves out-of-state and/or foreign study,

enrollment must be in accordance with subsection (j) and the following provisions:

1) The recipient must be enrolled at the ISAC-approved institution of higher learning, and the out-of-state/foreign study must be applicable to the student's degree or certificate program at the student's institution of record.

2) The ISAC-approved institution of higher learning must record the course credits on the official academic transcript as institutionally earned credit and not as transfer credit.

3) An institution shall not request more than two semesters/three quarters of MAP assistance for any one qualified applicant enrolled on a full-time basis, or four semesters/six quarters of MAP for an applicant-enrolled on a half-time basis.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 2735.40 Institutional Procedures

a) MAP recipients must report to the institution all additional gift assistance that applies toward tuition and mandatory fees, such as tuition waivers and scholarships.

b) If a MAP recipient receives other assistance targeted specifically for tuition and fees, the combined assistance shall not exceed the total tuition and fee expenses incurred.

c) If an applicant is eligible for assistance under the Illinois National Guard (ING) Grant Program or the Illinois Veteran Grant (IVG) Program (23 Ill. Adm. Code 2730 and 2733), the applicant is not eligible for a full MAP grant because ING and IVG must be factored into the financial aid packaging prior to awarding MAP gift assistance. The institution may request payment of a partial MAP grant to finance fee expenses not covered by the above-referenced programs.

d) If an applicant is eligible to receive tuition or fee benefits through a prepaid or reimbursable tuition plan other than the Illinois Prepaid Tuition Program (23 Ill. Adm. Code 2775), or through a payment to the institution of higher learning by the applicant's employer, the institution of higher learning shall request MAP

payment in accordance with this subsection:

1) A prepaid tuition plan is any program which exempts a student from tuition charges because of a payment to the institution at a time prior to the student's enrollment. A reimbursable tuition plan is a program which reimburses a student for tuition costs after satisfactory completion of course work.

2) The institution of higher learning shall recalculate the applicant's MAP eligibility by decreasing the applicant's tuition and fee charges by the amount of benefits the applicant is eligible to receive from the sources in subsection (d)(1) of this Section. The institution of higher learning shall report the applicant's reduced grant award on the payment request.

e) The provisions of this Section shall not apply to benefits derived from the Baccalaureate Savings Act [110 ILCS 920] and 23 Ill. Adm. Code 2771.

f) Notwithstanding the provisions of other ISAC-administered programs, the total amount of a student's gift assistance may not exceed the cost of attendance used to calculate Title IV aid for that student. Any excess gift assistance is considered an overaward and the institution of higher learning is required to reduce the MAP award and/or other gift assistance to prevent such an overaward. For the purposes of this calculation, federal veterans benefits are not counted as gift assistance.

g) Institutions of higher learning shall submit payment requests to ISAC. ~~By submitting a payment request, an institution is certifying that the qualified applicants meet the requirements of Section 2735.20, Applicant Eligibility.~~

h) For any institution of higher learning which has concurrent registration opportunities, the following policy pertains:

1) The recipient must indicate his/her institution of record on the MAP application.

2) The payment of the term award by ISAC will require the institution of record to receive MAP payment on behalf of any other institutions and the institution of record shall distribute the appropriate share of the award to the other institutions. Payment by ISAC will not be made to more than one institution.

3) The amount paid cannot exceed the maximum term award for students at the institution of record, or the tuition and mandatory fee costs at the institution of record if the costs are less than the maximum term award.

4) Concurrent registration is limited to ISAC-approved institutions of higher learning.

5) The recipient's academic records at the institution of record must document the total number of credit hours for which the student is enrolled.

i) If an Illinois institution operates an out-of-state center, residents of Illinois enrolled in classes at the out-of-state center may receive MAP benefits in accordance with Section 2735.30(u).

j) If an announced recipient's credit hour enrollment decreases, the institution shall only request payment up to the amount of actual tuition and mandatory fee expenses incurred.

k) Upon receipt of a payment request from the institution of record, ISAC remits MAP grant funds to the institution of record on behalf of the recipient. The institution of record shall credit these funds to the recipient's account.

l) MAP grants are paid directly to the approved institution of record that certifies to ISAC that the applicant is an eligible recipient.

1) ISAC will annually establish priority claim dates for the submission of payment requests and inform schools of the required priority dates.

2) Late payment requests will result in delayed processing of payments. Payment requests are processed in the sequence of receipt by ISAC and as funds are available.

3) Institutions may submit their payment requests beginning ten days prior to the start of classes for the term for which they are requesting payment.

m) Institutional Processing of Payments

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Within 30 days after and including the date of receiving payment of any MAP funds claimed or advanced pursuant to this Section, the institution shall credit the MAP funds against the recipients' tuition and mandatory fee charges for the appropriate term.

2) Within 30 days after the end of an academic term during which MAP funds were credited to recipients' tuition and mandatory fee charges, institutions must reconcile data received from ISAC as a result of payment claim processing against the eligibility status throughout that term for each student for whom payment claims were made. In reconciling the data with student eligibility, an institution must determine whether:

   A) The amount of the claim applied to a student's tuition and mandatory fee charges exceeded the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

   B) The amount of the claim applied to a student's tuition and mandatory fee charges was less than the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

   C) The amount of the claim applied to a student's tuition and mandatory fee charges equaled the amount that the student was eligible to receive.

3) Any institution that determines that the amount of a claim applied to a student's tuition and mandatory fee charges either exceeded the amount that the student was eligible to receive or was less than that amount must submit an accounting of all such adjustments to ISAC within 30 days following the end of the applicable term.

4) For any claims determined to exceed the amount that the student was eligible to receive, the amount in excess paid for the claims shall be remitted to ISAC within 45 days after the end of the institutions regular school year unless the payment is received after the end of the regular school year. If the payment of claims are made after the end of the regular school year, the institution shall have 60 days following receipt of the payment to complete reconciliation and remit any funds due to ISAC.

5) Award payments made in the name of one recipient cannot be applied to another recipient at the same institution. A refund of the payment made must be submitted to ISAC, and a supplemental request for payment must be processed for the proper recipient.

6) To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests except for summer term must be received by ISAC no later than July 1. Summer term payment requests must be received no later than July 31.

7) Payment requests received after August 1 for the prior academic year will be processed as time and available funds permit; however, final action may require institutions to go to the Illinois Court of Claims to obtain payment for approved claims. (See the Court of Claims Act [705 ILCS 505].)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Optometric Education Scholarship Program

2) Code Citation: 23 Ill. Adm. Code 2741

3) Section Number: 2741.40 Proposed Action: Amendment

4) Statutory Authority: Implements Section 65.70 of the Higher Education Student Assistance Act [110 ILCS 947/65.70] and authorized by Sections 20(f) and 65.70 of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.70]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking deletes language referencing institutional certification in Section 2741.40 as institutional certification is already required by 23 Ill. Adm. Code 2700.50(c) and (d).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not require a local government to establish, expand or modify its activities in such a way as to require additional expenditures from local revenues.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Deerfield, IL 60015

Telephone: 847/948-8500, ext. 2305
Email: lynn.hynes@isac.illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small business, small municipalities and not for profit corporation affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of Professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2741
OPTOMETRIC EDUCATION SCHOLARSHIP PROGRAM

Section
2741.10 Summary and Purpose
2741.20 Applicant Eligibility
2741.30 Program Procedures
2741.40 Institutional Procedures

AUTHORITY: Implementing Section 65.70 of the Higher Education Student Assistance Act [110 ILCS 947/65.70 and authorized by Sections 20(f) and 65.70 of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.70].

SOURCE: Adopted at 27 Ill. Reg. 10369, effective July 1, 2003; amended at 37 Ill. Reg. _____, effective _____.

Section 2741.40 Institutional Procedures

a) Institutions shall submit payment requests to ISAC. ~~By submitting a payment request, an institution is certifying that the qualified applicants meet the requirements of Section 2741.20, Applicant Eligibility.~~

b) Funds shall be remitted by ISAC annually to participating institutions on behalf of the recipients.

c) All scholarships shall be applicable only to tuition and mandatory fees for two semesters or three quarters in an academic year. The institution shall determine the amount of each grant, which shall be the lesser of:

1) $5,000;~~,~~ or

2) tuition and mandatory fees.

d) The total amount of Optometric Education Scholarship assistance awarded to a qualified applicant in a given academic year, when added to other financial aid

available to the qualified applicant for that year, shall not exceed the cost of attendance.

e) Upon receipt of scholarship funds, the institution shall verify the recipient's enrollment status for the term for which the award was intended. If enrolled, the institution may credit the scholarship funds to the recipient's account for expenses due and payable. The balance of the disbursement shall be released to the recipient.

f) Upon receipt of the scholarship funds, if the recipient has withdrawn from enrollment for the terms for which the award was intended, the institution shall return the amount of the scholarship payment to ISAC.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Minority Teachers Of Illinois (MTI) Scholarship Program

2) Code Citation: 23 Ill. Adm. Code 2763

3)

Section Numbers:	Proposed Action:
2763.20	Amendment
2763.40	Amendment

4) Statutory Authority: Implementing Section 50 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/50 and 20(f)]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates the name of the Illinois Future Teacher Corps Program (23 Ill. Adm. Code 2764) to the Golden Apple Scholars of Illinois Program in Section 2763.20 and deletes language referencing institutional certification in Section 2763.40 as institutional certification is already required by 23 Ill. Admin. Code 2700.50(c) and (d).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not require a local government to establish, expand or modify its activities in such a way as to require additional expenditures from local revenues.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Lynn Hynes
Agency Rules Coordinator

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

Telephone: 847/948-8500, ext. 2305
Email: lynn.hynes@isac.illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of Professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2763
MINORITY TEACHERS OF ILLINOIS (MTI) SCHOLARSHIP PROGRAM

Section
2763.10 Summary and Purpose
2763.20 Applicant Eligibility
2763.30 Program Procedures
2763.40 Institutional Procedures

AUTHORITY: Implementing Section 50 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/50 and 20(f)].

SOURCE: Emergency rules adopted at 15 Ill. Reg. 15621, effective October 11, 1991, for a maximum of 150 days; emergency expired on March 9, 1992; adopted at 16 Ill. Reg. 7048, effective April 21, 1992; emergency amendments adopted at 16 Ill. Reg. 16326, effective September 28, 1992, for a maximum of 150 days; emergency expired on February 25, 1993; emergency amendment at 17 Ill. Reg. 175, effective January 1, 1993, for a maximum of 150 days; emergency expired on May 30, 1993; amended at 17 Ill. Reg. 10585, effective July 1, 1993; amended at 18 Ill. Reg. 10325, effective July 1, 1994; amended at 19 Ill. Reg. 8361, effective July 1, 1995; amended at 20 Ill. Reg 9221, effective July 1, 1996; amended at 20 Ill. Reg. 9221, effective July 1, 1996; old Part repealed, new Part adopted at 21 Ill. Reg. 11174, effective July 18, 1997; amended at 22 Ill. Reg. 11141, effective July 1, 1998; amended at 24 Ill. Reg. 9181, effective July 1, 2000; amended at 27 Ill. Reg. 10385, effective July 1, 2003; amended at 28 Ill. Reg. 9155, effective July 1, 2004; amended at 29 Ill. Reg. 9934, effective July 1, 2005; amended at 30 Ill. Reg. 11678, effective July 1, 2006; amended at 37 Ill. Reg. _____, effective _____.

Section 2763.20 Applicant Eligibility

a) A qualified applicant shall be:

1) a minority student;

2) a resident of Illinois;

3) a citizen or permanent resident of the United States;

4) a high school graduate or a General Educational Development (GED) certificate recipient;

5) enrolled or accepted for enrollment on at least a half-time basis;

6) a student at an institution of higher learning;

7) enrolled or accepted for enrollment in a course of study which, upon completion, qualifies the student to be certified as a preschool, elementary or secondary school teacher by the Illinois State Board of Education, including alternative teacher certification;

8) maintaining a cumulative grade point average of no less than 2.5 on a 4.0 scale; and

9) maintaining satisfactory academic progress as determined by the institution.

b) In any academic year in which the qualified applicant accepts or receives financial assistance through the Paul Douglas Teacher Scholarship Program (23 Ill. Adm. Code 2762), Golden Apple Scholars of Illinois Program~~Illinois Future Teacher Corps Program~~ (23 Ill. Adm. Code 2764), the Special Education Teacher Tuition Waiver Program (23 Ill. Adm. Code 2765), or the Teach Illinois Scholarship Program (23 Ill. Adm. Code 2768), the qualified applicant shall not be eligible for scholarship assistance under this Part.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 2763.40 Institutional Procedures

a) The institution shall submit eligibility information for qualified applicants in sufficient time for ISAC to make award announcements.

b) The institution shall submit ~~a certification of eligibility for qualified applicants with~~ its request for payment~~,~~ within the time frame requested by ISAC, which shall be no sooner than 30 days unless a more rapid response is necessary to expend appropriated funds prior to the end of the academic year.

c) ISAC shall disburse scholarship funds in two or three installments, depending on the number of terms financed by the scholarship, except that multiple disbursements shall not be required in cases where the applicant's eligibility is not determined until the final term of the regular school year for which the scholarship is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.

d) Funds shall be remitted by ISAC to institutions on behalf of the recipients.

e) Upon receipt of scholarship funds, the institution shall verify the recipient's enrollment status for the term for which the award was intended. If enrolled, the institution may credit the scholarship funds to the recipient's account for expenses due and payable. The balance of the disbursement shall be released to the recipient.

f) Upon receipt of the scholarship funds, if the recipient has withdrawn from enrollment for the terms for which the award was intended, the institution shall return the amount of the scholarship payment to ISAC.

g) Scholarship Amount

1) MTI scholarships are applicable only toward tuition and fees and room and board charges or commuter allowances, if applicable.

2) The annual scholarship amount shall be computed by the institution and must be the lesser of:

A) tuition and fees plus room and board expenses charged by the institution;

B) tuition and fees plus the standard commuter allowance for students living off-campus; or

C) $5000.

3) The total amount of MTI scholarship assistance awarded to a qualified applicant in a given regular school year, when added to the other financial aid available to the qualified applicant for that year, cannot exceed the cost

of attendance.

4) A qualified applicant may receive grant assistance under the Monetary Award Program (23 Ill. Adm. Code 2735) only up to the amount by which the qualified applicant's cost of attendance exceeds the amount of the MTI scholarship.

h) To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests must be received by ISAC no later than July 1.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Illinois Special Education Teacher Tuition Waiver (SETTW) Program

2) Code Citation: 23 Ill. Adm. Code 2765

3) Section Number: 2765.20 Proposed Action: Amendment

4) Statutory Authority: Implementing Section 65.15 and authorized by Sections 20(f) and 65.1(a)(2) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.15]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates the name of the Illinois Future Teacher Corps Program (23 Ill. Adm. Code 2764) to the Golden Apple Scholars of Illinois Program in Section 2765.20.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3] and does not require a local government to establish, expand or modify its activities in such a way as to require additional expenditures from local revenues.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1755 Lake Cook Road
Deerfield IL 60015

Telephone: 847/948-8500, ext. 2305
Email: lynn.hynes@isac.illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of Professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2765
ILLINOIS SPECIAL EDUCATION TEACHER TUITION WAIVER (SETTW) PROGRAM

Section
2765.10 Summary and Purpose
2765.20 Applicant Eligibility
2765.30 Program Procedures
2765.40 Institutional Procedures

AUTHORITY: Implementing Section 65.15 and authorized by Sections 20(f) and 65.15(a)(2) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.15].

SOURCE: Adopted at 19 Ill. Reg. 8354, effective July 1, 1995; amended at 20 Ill. Reg. 9194, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11129, effective July 18, 1997; amended at 22 Ill. Reg. 11107, effective July 1, 1998; amended at 24 Ill. Reg. 9159, effective July 1, 2000; amended at 26 Ill. Reg. 10037, effective July 1, 2002; amended at 27 Ill. Reg. 10405, effective July 1, 2003; amended at 28 Ill. Reg. 9170, effective July 1, 2004; amended at 29 Ill. Reg. 9941, effective July 1, 2005; amended at 30 Ill. Reg. 11697, effective July 1, 2006; amended at 35 Ill. Reg. 12388, effective July 15, 2011; amended at 37 Ill. Reg. _____, effective _____.

Section 2765.20 Applicant Eligibility

a) A qualified applicant shall be:

1) a United States citizen or an eligible noncitizen;

2) a resident of Illinois;

3) a graduate of an approved high school; a student scheduled to graduate from an approved high school by the end of the academic year in which the award is made who ranks in the upper half of his or her high school graduating class at the end of the sixth semester; or a person holding a valid teaching certificate that is not in the discipline of Special Education;

ILLINOIS STUDENT ASSISTANCE COMMISSION

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4) enrolled, or accepted for enrollment, as an undergraduate or graduate student seeking initial certification in any area of Special Education as determined by the university;

5) attending, or planning to attend, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Southern Illinois University (Carbondale), Southern Illinois University (Edwardsville), University of Illinois (Chicago), University of Illinois (Springfield), University of Illinois (Urbana) or Western Illinois University; and

6) a potential new recipient in that he or she shall have not received the Illinois Special Education Teacher Tuition Waiver in the past.

b) In any academic year in which the qualified applicant accepts or receives financial assistance through the Paul Douglas Teacher Scholarship (23 Ill. Adm. Code 2762), the Minority Teachers of Illinois Scholarship (23 Ill. Adm. Code 2763), the Golden Apple Scholars of Illinois Program~~Illinois Future Teacher Corps Program~~ (23 Ill. Adm. Code 2764), or Teach Illinois Scholarship Program (23 Ill. Adm. Code 2768), he or she shall not be eligible for an Illinois Special Education Teacher Tuition Waiver.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Prepaid Tuition Program

2) Code Citation: 23 Ill. Adm. Code 2775

3)

Section Numbers:	Proposed Action:
2775.40	Amendment
2775.50	Amendment

4) Statutory Authority: Implements the Illinois Prepaid Tuition Act [110 ILCS 979] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) A Complete Description of the Subjects and Issues Involved: The Master Agreement and Disclosure Statement was reviewed and updated. Because the information was reorganized, the document was renamed to reference the information in the order presented. Subsection 2775.40(f)(4) reduces the amount refunded to an individual who voluntarily cancel a prepaid tuition contract by eliminating payment of two percent interest, compounded annually, on the purchase price of the contract.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed amendments pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not require a local government to establish, expand or modify its activities in such a way as to require additional expenditures from local revenues.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

Telephone: 847/948-8500, ext. 2305
Email: lynn.hynes@isac.illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

The full text of these Proposed Amendments begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2775
ILLINOIS PREPAID TUITION PROGRAM

Section
2775.10 Summary and Purpose
2775.20 Definitions
2775.30 Participant Eligibility
2775.40 Program Procedures
2775.50 Contract Terms and Conditions
2775.60 Scholarships, Grants or Monetary Assistance
2775.70 Disclosure

AUTHORITY: Implementing the Illinois Prepaid Tuition Act [110 ILCS 979] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 16652, effective September 11, 1998, for a maximum of 150 days; adopted at 23 Ill. Reg. 2591, effective February 1, 1999; amended at 24 Ill. Reg. 9154, effective July 1, 2000; amended at 25 Ill. Reg. 8410, effective July 1, 2001; amended at 26 Ill. Reg. 10043, effective July 1, 2002; amended at 28 Ill. Reg. 9177, effective July 1, 2004; amended at 29 Ill. Reg. 9954, effective July 1, 2005; amended at 32 Ill. Reg. 10349, effective July 1, 2008; amended at 35 Ill. Reg. 3538, effective February 16, 2011; amended at 36 Ill. Reg. 9444, effective July 1, 2012; amended at 37 Ill. Reg. _____, effective _____.

Section 2775.40 Program Procedures

a) Application and Disclosure Statement and Master Agreement~~Master Agreement and Disclosure Statement~~

1) The application period for purchases of contracts for the prepayment of postsecondary registration fees shall commence and terminate on dates set annually and announced publicly by the Commission.

2) After receipt and approval of the purchaser's application, the Disclosure Statement and Master Agreement~~Master Agreement and Disclosure~~

~~Statement~~ and a participation and payment schedule shall be mailed to the purchaser. The contract shall be comprised of these three documents.

3) Each prepaid tuition contract must have one person designated as purchaser and one person designated as qualified beneficiary, except as provided in the Disclosure Statement and Master Agreement~~Master Agreement and Disclosure Statement~~.

b) Contract Prices and Fees
The Commission shall annually review contract prices and adjust prices for new contracts, referencing annual changes in registration fees at Illinois public universities and Illinois community colleges. An implied interest rate for installment payment plans will be calculated annually, and subsequently approved or reaffirmed by the Commission as part of its pricing policy for the program. The Commission shall also approve annually a schedule of administrative, service and cancellation fees.

c) Payment Options
All contributions must be made in cash or its equivalent. Payments may be made only by check, money order, authorized monthly debit (ACH) from a bank account, payroll deduction, if available, or other payment method established by the Commission. Payments are due in accordance with conditions set forth in the contract. Payments may be made by lump sum or by installments. No penalty shall be assessed for early payment of installment contracts.

d) Delinquency and Default

1) Contracts purchased on or after November 1, 2009

A) A late fee will be assessed if no contract payment is received by the first payment due date.

B) An account will be cancelled if the initial payment is not received within 15 days after the first payment due date.

C) For monthly payment plans, failure to make full payment within 15 days after the due date shall result in assessment of a late fee and suspension of the qualified beneficiary's rights under the plan.

D) For annual payment plans, failure to make full payment within 30 days after the due date shall result in assessment of a late fee and suspension of the qualified beneficiary's rights under the plan.

E) Contracts that are suspended for missing information will be cancelled on the 16th of the month, along with those accounts that have made no contract payment.

F) If an account is delinquent for 210 days, the account is automatically converted from an installment plan to the same contract plan type reflecting the number of semesters already paid in full at the time of conversion, less any outstanding fees. If the amount paid towards the account is insufficient to pay in full the same contract plan type at the time the application was submitted, the account is cancelled and the purchaser is sent the appropriate refund amount.

2) Contracts purchased prior to November 1, 2009

A) For monthly payment plans, failure to make full payment within 15 days after the due date shall result in assessment of a late fee and suspension of the qualified beneficiary's rights under the plan.

B) For lump sum and annual payment plans, failure to make full payment within 30 days after the due date shall result in assessment of a late fee and suspension of the qualified beneficiary's rights under the plan.

C) If an account is delinquent for 210 days after the scheduled payment date, the account is cancelled and the purchaser is sent the appropriate refund amount.

e) Termination
There are two types of contract termination, involuntary and voluntary:

1) Involuntary termination shall occur upon a finding of fraud in the verification of residency of a qualified beneficiary at the time of application or the nonpayment of any appropriate payments due within established time frames.

2) Voluntary termination shall occur within 30 days after receiving written notice of a purchaser's desire to cancel a contract.

f) Refunds
Generally, no refund shall exceed the amount paid into the Illinois Prepaid Tuition Trust Fund by the purchaser and no refund shall be authorized under any prepaid tuition contract for any term partially attended but not completed. Refunds shall be made payable to the order of the purchaser only. The Commission shall authorize refunds in excess of the amount paid into the Illinois Prepaid Tuition Trust Fund only for contracts held for at least three years under the following conditions:

1) When a qualified beneficiary is awarded a grant or scholarship, the terms of which duplicate the benefits covered by his or her prepaid tuition contract, then the moneys paid for the purchase of the contract shall be returned to the purchaser, in term installments that coincide with the matriculation of the qualified beneficiary.

A) If the qualified beneficiary is enrolled at an Illinois Public University or Illinois Community College, the refund will be equal to the institution's current in-state or in-district registration fees, less any registration fees not covered by the scholarship and any applicable service fees.

B) If the qualified beneficiary is enrolled at a nonpublic institution of higher education, the refund will be equal to the current mean-weighted average of registration fees at Illinois public universities or Illinois community colleges, depending on the plan purchased under the contract, less the registration fees not covered by the scholarship and any applicable service fees.

2) In the event of death or total disability of the qualified beneficiary, moneys paid for the purchase of the contract shall be returned to the purchaser together with all accrued earnings.

3) In cases where a public university plan contract is converted for usage at an Illinois community college, then the amount refunded shall be on a term-by-term basis. The refund should be the current value of the original

contract minus the current value of the contract after conversion.

4) In all instances of a voluntary contract cancellation, the amount refunded shall be the original purchase price of the contract less the applicable cancellation fees~~plus two percent compounded annually, less a cancellation fee~~.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 2775.50 Contract Terms and Conditions

a) Contract Types
The program shall offer purchasers at least two different types of contracts: a public university plan and a community college plan. Additional contract plans may be offered. All contract types shall cover registration fees.

1) The public university plan specifies that no more than 9 terms, or 135 credit hours, at an Illinois public university may be purchased for the benefit of a qualified beneficiary. Applicants may choose to purchase as little as one term, or 15 credit hours, at a time.

2) The community college plan specifies that no more than 4 terms, or 60 credit hours, at an Illinois community college may be purchased for the benefit of a qualified beneficiary. Applicants may choose to purchase as little as one term, or 15 credit hours, at a time.

3) No more than an aggregate of 135 credit hours of benefits may be purchased on behalf of any qualified beneficiary.

b) Contract Benefits

1) The registration fees contracted for by the purchaser shall be paid directly to the institution at the time of enrollment of the qualified beneficiary. The credit hours purchased may be used during any term of postsecondary undergraduate enrollment. A social security number or taxpayer identification number must be on file prior to payment of benefits.

2) No contract benefits may be received by a qualified beneficiary of an Illinois prepaid tuition contract earlier than three years from the due date

of the first contract payment.

3) No interest in all or any portion of a contract may be used as security for a loan.

c) Contract Requirements

1) Purchasers must name a qualified beneficiary in the application, except as provided in the Disclosure Statement and Master Agreement~~Master Agreement and Disclosure Statement~~. Only one qualified beneficiary is allowed per contract. A separate accounting will be provided for each designated beneficiary.

2) In the event duplicate applications for the same qualified beneficiary are processed, the application processed first shall be deemed valid and the remaining application or applications shall be deemed valid, if and only if, they provide for registration fees not already covered by previous applications.

3) The purchaser does not have to designate the postsecondary institution that the qualified beneficiary is expected to attend.

4) The benefits of a contract may be used in advance of the selected matriculation date indicated in the application with no penalty or additional cost. However, to utilize a contract prior to the selected matriculation date, the purchaser must pay the contract in full before changing the matriculation date.

5) The qualified beneficiary must enroll in an eligible institution and request disbursement of any benefits within ten years after the projected enrollment date. This ten year limitation may be extended at the Commission's sole discretion upon purchaser's application for extension to the Commission. Any time spent by the qualified beneficiary in active military service shall not count as part of the time period for receiving contract benefits under all contract plans.

6) The purchaser and qualified beneficiary are prohibited from directing the investment of any contributions to the program.

d) Change of Purchaser and Change of Qualified Beneficiary

1) The purchaser of a contract may be changed upon written request of the original purchaser and the new purchaser. The new purchaser must meet the requirements of a qualified purchaser contained in the master agreement other than the residency requirement. (See Section 2775.30(a).)

2) Upon written request, contract benefits may be transferred by the purchaser to a new qualified beneficiary prior to actual use. The new qualified beneficiary must be a member of the family of the original qualified beneficiary but need not meet the residency requirement. (See Section 2775.30(a).)

e) Benefit Portability and Conversion Between Illinois Public Universities and Illinois Community Colleges

1) Public university plan benefits may be converted for usage at community colleges and community college plan benefits may be converted for usage at public universities.

2) Benefits shall be converted by referencing the relative current average mean-weighted credit hour value of registration fees purchased under the contract. The benefit conversions shall be authorized on a term-by-term basis and no fee shall be assessed for conversion of benefits among in-State public institutions.

f) Benefit Portability and Conversion to Nonpublic Institutions of Higher Education

1) Public university plan and community college plan contract benefits may be converted for payment of registration fees at nonpublic institutions of higher education.

2) Benefits shall be converted by referencing the current average mean-weighted credit hour value of registration fees purchased under the contract. Each term, the Commission shall transfer this amount to the nonpublic institution of higher education on behalf of the qualified beneficiary.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Veteran's Scratch-Off Lottery Grant Program

2) Code Citation: 95 Ill. Adm. Code 125

3)

Section Numbers:	Proposed Action:
125.10	Amendment
125.50	Amendment
125.60	Amendment
125.70	Amendment

4) Statutory Authority: Implementing and authorized by Section 21.6 of the Illinois Lottery Law [20 ILCS 1605/21.6] and Section 4 of the Illinois Grant Funds Recovery Act [30 ILCS 705/4(b)(2)]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking adds a sixth statutory category (i.e. veteran employment and employment training) for grant applications; corrects previous rules issued regarding composition of the grant authorization committee; and adds statutory requirements for proper grant agreements and grant reporting requirements.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

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

Jaime Martinez, General Counsel

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

Department of Veterans' Affairs
100 W. Randolph St., Ste. 5-570
Chicago, IL 60601-3219

312/814-5391

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for this rulemaking was not anticipated at the time the Agendas were published.

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

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

TITLE 95: VETERANS AND MILITARY AFFAIRS
CHAPTER I: DEPARTMENT OF VETERANS' AFFAIRS

PART 125
VETERANS' SCRATCH-OFF LOTTERY GRANT PROGRAM

Section
125.10 Program Objectives
125.15 Definitions
125.20 Eligibility Requirements
125.30 Assistance Formula
125.40 General Procedures for Grant Applications and Awards
125.50 Eligible Project Costs
125.60 Project Evaluation Priorities
125.70 Funding Authorization Committee Program Compliance Requirements
125.80 Disqualification
125.APPENDIX A Project Evaluation Criteria

AUTHORITY: Implementing and authorized by Section 21.6 of the Illinois Lottery Law [20 ILCS 1605/21.6].

SOURCE: Adopted at 34 Ill. Reg. 7776, effective May 20, 2010; amended at 37 Ill. Reg. _____, effective _____.

Section 125.10 Program Objectives

The purpose of the program is to make grants, fund additional services, and conduct additional research relating to veterans' post traumatic stress disorder, veterans' homelessness, the health insurance costs of veterans, veterans' disability benefits, ~~and the~~ long-term care of veterans, and veteran employment and employment training.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.50 Eligible Project Costs

a) Grant assistance may be obtained for the following items:

1) Research or services relating to veterans' PTSD or TBI, including such things as contract payments to physicians or~~,~~ psychologists, laboratory

researchers and/or laboratory fees, contract labor, job training, computer/software purchase/lease, and necessary office equipment and supplies. The Department will consider, on a case-by-case basis, building lease arrangements when no government-owned facility is available and:

A) State statute or local ordinance prohibits a unit of local government from entering into a rental agreement; or

B) Other circumstances beyond the control of the unit of local government or non-governmental tax exempt organization prohibit other arrangements.

2) Programs designed to prevent, eliminate or alleviate veterans' homelessness, including such things as renovation of existing shelters to better serve homeless veterans, expansion of existing shelters for homeless veterans, contract payment to counselors or~~,~~ caseworkers, training and education, employment assistance, and necessary supplies.

3) Veterans' disability benefits, such as assistance in obtaining benefits, counseling, prosthetics, job training, accessibility of the home of a disabled veteran~~ home accessibility~~, and automobile modifications to accommodate the veteran's disability. ~~Applicant must employ a certified Veterans Service Officer or Officers to be eligible for grants under this subsection (a)(3).~~ Veterans Service Organizations receiving funding pursuant to Section 25 of the Department of Veterans' Affairs Act [20 ILCS 2805/25] shall be ineligible for grant funding from this program for Veteran Service Officers during the same period of time covered by the Section 25 award, and Veterans Service Organizations that elect to accept a grant from this program for Veterans Service Officer funding are ineligible for Section 25 awards for the year covered by this program grant.

4) Long-term veterans' care, including remodeling existing facilities, supplies, equipment, clothing, medicine, and all things necessary for the morale, welfare and recreation of the veterans being served.

5) Health insurance costs for veterans.

6) Veteran employment and employment training.

b) No assistance from this fund shall be used to supplant existing moneys that the Department currently expends for the purposes listed in subsection (a). All grants that are to benefit the Illinois Veterans Homes shall be limited to 50% of the total expenditure made by the grantee on behalf of a Veterans Home.

c) Project costs for which grant funding is sought cannot be incurred by the project applicant until after grant approval notification. Costs incurred prior to Department approval are ineligible for grant assistance.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 125.60 Project Evaluation Priorities

The following factors are used by the Department in evaluating and recommending project applications for funding assistance consideration (see Appendix A):

a) The applicant must be a government agency or a registered tax exempt organization ~~agency~~ at the time of application;

b) projects providing services to a currently unserved or underserved population of veterans;

c) projects located in areas of high demand or readily accessible to major population centers;

d) projects proposing innovative research or benefits;

e) projects for which long-term operations and maintenance capability is clearly demonstrated by the local sponsor and the degree to which the applicant relies upon program grant funding;

f) the applicant's record of providing benefits to veterans or the applicant's ~~applicants~~ record of providing services to non-veterans similar to the proposed services to be provided to veterans and the applicant's understanding of veterans' service and issues.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

Section 125.70 Funding Authorization Committee Program Compliance Requirements

The Funding Authorization Committee shall consist of three ~~two~~ members appointed by the Director. One of the three members ~~and one member~~ shall be a member of the Veterans' Advisory Council ~~appointed by the President of the Council~~. The Superintendent of the Illinois Lottery ~~Director~~ shall appoint one member of the Committee as chair. Staff members from the Department, as determined by the Director, shall advise the Committee. The Committee shall meet no less than quarterly at times and places announced by the Department.

a) Funding Authorization Committee Actions

1) The Committee may recommend that a grant application be:

A) approved;

B) not approved;

C) supplemented with more information and reconsidered at the next meeting;

D) held for reconsideration at the next meeting of the Committee; or

E) approved pending meeting standards (see Sections 125.50 and 125.60) not presented to the Committee.

2) Failure of an application to receive a two-thirds vote reflecting subsection (a)(1)(A), (C), (D) or (E) shall be considered to be not approved by the Committee.

b) The Director may veto an approved application, but may not overrule a failure to approve. The Committee may not overrule the Director's veto.

c) Property acquired or developed with program grant assistance may not be converted to a use that would deny use for veterans as provided by terms of the Grant Agreement without prior Department approval.

d) Financial records on approved projects must be maintained and retained by the project sponsor for possible State audit for a period of 5 years after final payment is made by the Department.

e) Grant funds may not be used except pursuant to a written Grant Agreement, and any disbursement of grant funds without a Grant Agreement is void. At a minimum, a Grant Agreement must:

1) *Describe the purpose of the grant and be signed by the Director and the grantee;*

2) *Specify the manner in which payments will be made, what constitutes permissible expenditure of the grant funds, and the financial controls applicable to the grant;*

3) *The period of time for which the grant is valid;*

4) *Contain a provision that any grantees receiving grant funds are required to permit the Department, the Auditor General, or the Attorney General to inspect and audit any books, records, or papers related to the program, project, or use for which grant funds were provided;*

5) *Contain a provision that all funds remaining at the end of the Grant Agreement or at the expiration of the period of time grant funds are available for expenditure or obligation by the grantee shall be returned to the State within 45 days; and*

6) *Contain a provision in which the grantee certifies under oath that all information in the Grant Agreement is true and correct to the best of the grantee's knowledge, information, and belief; that the funds shall be used only for the purposes described in the Grant Agreement; and that the award of grant funds is conditioned upon such certification.* [730 ILCS 705/4(b)(3) through (6)]

f~~e~~) The local sponsoring agency is required to enter into a~~an~~ Grant Agreement with the Department for an amount agreed upon as necessary to complete the approved project, specifying the related grant amount and program activity.

g~~f~~) All grant recipients shall publically acknowledge the grant by a statement on any written material being distributed, a sign located where it may be seen by the general public at the location of real property used by the recipient, a sign or decal

on any vehicles or durable equipment purchased pursuant to a grant, or other appropriate public acknowledgement of the grant.

h~~g~~) It shall be understood by the project sponsor that a Department representative may make periodic inspections of the project as the project progresses, and that a final inspection and audit must be made by a representative of the Department prior to acceptance of the completed project.

i~~h~~) Grants are for a period of one year. Expenditure authorizations passed by the Committee may be extended by the Department for no more than 12 months.

j) *For those grants in excess of $25,000, the filing of quarterly reports describing the progress of the program, project, or use and the expenditure of the grant funds related to it* shall be submitted to the Funding Authorization Committee. [30 ILCS 705/4(b)(2)]

k~~i~~) Each recipient of a program grant must file a report with the Department no later than 30 days after the conclusion of the grant period, detailing the expenditures made by the grantee. If a service grant, the report shall include: specific assistance given to veterans;~~,~~ how many veterans were assisted;~~,~~ ~~and~~ an evaluation of whether the service achieved its goals and~~,~~ is valuable enough to continue in operation;~~,~~ and whether the service ~~it~~ may continue ~~to operate~~ without continued use of program funding. If a research grant, the report shall include the results of the research, any conclusion that can be drawn from the research, and a report suitable for inclusion in a peer review publication.

l~~j~~) The sponsoring agency shall indemnify, protect, defend and hold harmless the Department from any and all liability, costs, damages, expenses or claims arising under, through or by virtue of the operation and maintenance of grant-assisted facilities or programs.

m~~k~~) The applicant's previous grant history with the Department will be considered when reviewing grant applications.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Administrative Procedures for General Professional Regulation under the Administrative Code

2) Code Citation: 68 Ill. Adm. Code 1130

3)

Section Numbers:	Adopted Action:
1130.10	Amendment
1130.100	New Section
1130.110	New Section
1130.120	New Section
1130.130	New Section
1130.APPENDIX A	New Section

4) Statutory Authority: Implementing the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(i)]

5) Effective Date of Amendments: February 1, 2013

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposal Published in *Illinois Register*: October 19, 2012; 36 Ill. Reg. 15175

10) Has JCAR issued a Statement of Objection to this Rulemaking: No

11) Differences between Proposal and Final Version: No substantive differences.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any proposed rulemakings pending on this Part? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendment: Public Acts 97-156 and 97-873 amended the Civil Administrative Code to provide that no person who has been convicted of any specified offense or is required to register as a sex offender may receive a license as a health care worker in Illinois and provides for the revocation of licenses already held. They also provided that a licensed health care worker charged with one of these specified offenses may continue to practice only with a chaperone. The chaperone must be a licensed health care worker and the chaperone shall provide written notice to all the health care worker's patients explaining the Department's order to use a chaperone. The Act allowed the Department to promulgate rules in order to implement those provisions.

This adopted amendment establishes procedures for revoking a license and for entering a chaperone order. The Act defines "health care worker" by adopting the definition in the Health Care Worker Self-Referral Act. This definition lists certain licensees of the Department but states that this list is not inclusive ("including but not limited to"). The amendments specify what other health care professions licensed by the Department are to be included in the definition of "health care worker" and they also define "forcible felony" which is not defined by the Act. It requires the Department to approve a plan of compliance with chaperones before the health care worker may resume seeing patients. It also re-titled the Part.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, Illinois 62786

Phone: 217/785-0813
Fax#: 217/557-4451

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER a: ADMINISTRATIVE RULES

PART 1130
ADMINISTRATIVE PROCEDURES FOR GENERAL PROFESSIONAL REGULATION UNDER THE ADMINISTRATIVE CODE~~NON-BINDING, ADVISORY OPINIONS ON CRIMINAL CONVICTIONS~~

SUBPART A: GENERAL

Section
1130.10 Definitions

SUBPART B: NON-BINDING, ADVISORY OPINIONS ON CRIMINAL CONVICTIONS

Section
1130.20 Request for Non-Binding, Advisory Opinion
1130.30 Board Review
1130.40 Confidentiality of Records

SUBPART C: PERMANENT REVOCATIONS

Section
1130.100 Notice of Intent to Issue Permanent Revocation Order
1130.110 Licensed Health Care Worker
1130.120 Forcible Felony
1130.130 Chaperone Orders

1130.APPENDIX A Notice of Order Requiring Chaperone

AUTHORITY: Implementing Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

SOURCE: Adopted at 35 Ill. Reg. 7956, effective May 20, 2011; amended at 37 Ill. Reg. 1192, effective February 1, 2013.

SUBPART A: GENERAL

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1130.10 Definitions

"Address of record" means the designated address recorded by the Department in the licensee's license file as maintained by the Department's licensure maintenance unit. It is the duty of the licensee to inform the Department of any change of address, and those changes must be made either through the Department's website or by contacting the Department.

"Board" means a board or committee appointed and acting pursuant to any Act administered by the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Chaperone order" means the administrative order issued by the Director, on behalf of the Secretary, pursuant to Section 2105-165(c) of the Code.

"Code" means the Civil Administrative Code of Illinois [20 ILCS 2105].

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Individual" *means a person with a criminal record, who seeks a license or certificate in an occupation for which a criminal record is not expressly a per se bar, who applies to the Department for a non-binding, advisory opinion to be provided by the Board or body with the authority to issue the license or certificate as to whether his or her criminal record would bar the individual from the licensure or certification sought, should the individual meet all other licensure requirements, including, but not limited to, the successful completion of the relevant examinations* [20 ILCS 2105/2105-15(i)].

"Person" means an individual human being and not a corporate or other type of legal entity.

"Statute" means Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

(Source: Amended at 37 Ill. Reg. 1192, effective February 1, 2013)

SUBPART C: PERMANENT REVOCATIONS

Section 1130.100 Notice of Intent to Issue Permanent Revocation Order

a) Upon determination that the license of a licensed health care worker is subject to permanent revocation pursuant to Section 2105-165(a) of the Code, the Director shall cause a Notice of Intent to Issue Permanent Revocation Order to be served on the licensee by registered mail at the licensee's address of record.

b) The Notice of Intent to Issue Permanent Revocation Order shall specify the reason for the intended action and notify the licensee that he or she has 20 days from the date the Notice is mailed to present to the Department a written response contesting the Department's intended action. Any written response received by the Department shall only be considered for the following reasons and shall include documentation that supports one of these three reasons:

1) The licensee has been incorrectly identified as the person with the conviction;

2) The licensee's conviction has been vacated, overturned, or reversed or a pardon has been granted; or

3) The licensee's conviction is not a disqualifying conviction.

c) After 20 days have lapsed since the issuance of the Notice of Intent to Issue Permanent Revocation Order and the Department has not received a written response from the licensee or any written response received by the Department from the licensee has not established one of the grounds provided in subsection (b), the Director shall issue an order permanently revoking the license of the licensed health care worker in accordance with Section 2105-165(a) of the Code.

(Source: Added at 37 Ill. Reg. 1192, effective February 1, 2013)

Section 1130.110 Licensed Health Care Worker

The following licensed professionals are licensed health care workers for the purposes of Section 2105-165 of the Code and this Part:

a) Dentists and dental hygienists licensed under the Illinois Dental Practice Act [225 ILCS 25];

b) Licensed practical nurses, registered nurses and advanced practice nurses licensed under the Nurse Practice Act [225 ILCS 65];

c) Occupational therapists and occupational therapy assistants licensed under the Illinois Occupational Therapy Practice Act [225 ILCS 75];

d) Optometrists licensed under the Illinois Optometric Practice Act of 1987 [225 ILCS 80];

e) Pharmacists licensed under the Pharmacy Practice Act [225 ILCS 85];

f) Physical therapists and physical therapy assistants licensed under the Illinois Physical Therapy Act [225 ILCS 90];

g) Physicians, including medical doctors (M.D.), doctors of osteopathic medicine (D.O.), and chiropractic physicians (D.C.), licensed under the Medical Practice Act of 1987 [225 ILCS 60];

h) Physician assistants licensed under the Physician Assistant Practice Act of 1987 [225 ILCS 95];

i) Podiatrists licensed under the Podiatric Medical Practice Act of 1987 [225 ILCS 100] ;

j) Clinical psychologists licensed under the Clinical Psychologist Licensing Act [225 ILCS 15];

k) Clinical social workers and social workers licensed under the Clinical Social Work and Social Work Practice Act [225 ILCS 20];

l) Speech-language pathologists and audiologists licensed under the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110];

m) Acupuncturists licensed under the Acupuncture Practice Act [225 ILCS 2];

n) Athletic trainers licensed under the Illinois Athletic Trainers Practice Act [225 ILCS 5];

o) Marriage and family therapists licensed under the Marriage and Family Therapy Licensing Act [225 ILCS 55];

p) Naprapaths licensed under the Naprapathic Practice Act [225 ILCS 63];

q) Nursing home administrators licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70];

r) Orthotists, prosthetists, and pedorthists licensed under the Orthotics, Prosthetics, and Pedorthics Practice Act [225 ILCS 84];

s) Respiratory care practitioners licensed under the Respiratory Care Practice Act [225 ILCS 106];

t) Professional counselors and clinical professional counselors licensed under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107];

u) Perfusionists licensed under the Perfusionist Practice Act [225 ILCS 125];

v) Registered surgical assistants and registered surgical technologists licensed under the Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act [225 ILCS 130];

w) Genetic counselors licensed under Genetic Counselor Licensing Act [225 ILCS 135]; and

x) Any other license issued by the Department under the Acts listed in this Section and the Controlled Substances Act [740 ILCS 40], except for pharmacy technicians, issued to a person subject to the Code and this Part.

(Source: Added at 37 Ill. Reg. 1192, effective February 1, 2013)

Section 1130.120 Forcible Felony

A "forcible felony", for the purposes of Section 2105-165 of the Code and this Part is one or more of the following offenses (section numbers are from the Criminal Code of 1961 [720 ILCS 5]):

a) First Degree Murder (Section 9-1);

b) Intentional Homicide of an Unborn Child (Section 9-1.2);

c) Second Degree Murder (Section 9-2);

d) Voluntary Manslaughter of an Unborn Child (Section 9-2.1);

e) Drug-induced Homicide (Section 9-3.3);

f) Kidnapping (Section 10-1);

g) Aggravated Kidnapping (Section 10-2);

h) Unlawful Restraint (Section 10-3);

i) Aggravated Unlawful Restraint (Section 10-3.1);

j) Forcible Detention (Section 10-4);

k) Involuntary Servitude (Section 10-9(b));

l) Involuntary Sexual Servitude of a Minor (Section 10-9(c));

m) Trafficking in Persons (Section 10-9(d));

n) Criminal Sexual Assault (Section 11-1.20);

o) Aggravated Criminal Sexual Assault (Section 11-1.30);

p) Predatory Criminal Sexual Assault of a Child (Section 11-1.40);

q) Criminal Sexual Abuse (Section 11-1.50);

r) Aggravated Criminal Sexual Abuse (Section 11-1.60);

s) Aggravated Battery (Section 12-3.05);

t) Compelling Organization Membership of Persons (Section 12-6.1);

u) Compelling Confession or Information by Force or Threat (Section 12-7);

v) Robbery; Aggravated Robbery (Section 18-1);

w) Armed Robbery (Section 18-2);

x) Vehicular Hijacking (Section 18-3);

y) Aggravated Vehicular Hijacking (Section 18-4);

z) Home Invasion (Section 19-6);

aa) Terrorism (Section 29D-14.9);

bb) Causing a Catastrophe (Section 29D-15.1);

cc) Possession of a Deadly Substance (Section 29D-15.2);

dd) Making a Terrorist Threat (Section 29D-20);

ee) Falsely Making a Terrorist Threat (Section 29D-25);

ff) Material Support for Terrorism (Section 29D-29.9);

gg) Hindering Prosecution of Terrorism (Section 29D-35);

hh) Boarding or Attempting to Board an Aircraft with Weapon (Section 29D-35.1);

ii) Armed Violence (Section 33A-2); and

jj) Attempt (Section 8-4) of any of the above specified offenses.

(Source: Added at 37 Ill. Reg. 1192, effective February 1, 2013)

Section 1130.130 Chaperone Orders

a) Within 5 days after receiving notice from a prosecuting attorney that a licensed health care worker has been charged with any offense for which the sentence includes registration as a sex offender; a criminal battery against a patient, including any offense based on sexual conduct or sexual penetration, in the course of patient care or treatment; or a forcible felony, the Department shall forward a chaperone order to the licensed health care worker that requires the worker to immediately cease professional practice and not to resume practice with patient encounters until authorized to do so by the Department pursuant to an approved plan of compliance.

b) A licensed health care worker subject to a chaperone order pursuant to Section 2105-165(c) of the Code shall submit to the Department a written plan of compliance within 5 days after receipt of the chaperone order. The plan of compliance shall include, at a minimum, the following:

1) The number of proposed chaperones;

2) The names, mailing address, email address, telephone number and license number of each proposed chaperone;

3) The days, times, and locations where the licensed health care worker subject to a chaperone order will practice;

4) The scheduled days, hours and practice locations for each chaperone proposed to be utilized; and

5) The method to be used to document the presence of a chaperone during all patient encounters. The presence of a chaperone shall be shown by:

A) Maintaining a schedule of the dates, times and locations each chaperone works and having the designated chaperone initial or make a notation in each patient chart every time the patient is seen by the licensed health care worker subject to a chaperone order; or

B) Maintaining a chaperone log listing each patient seen by the licensed health care worker subject to a chaperone order and

signed by both that health care worker and the approved chaperone after each patient encounter.

c) A proposed chaperone shall be a licensed health care worker in good standing and shall be subject to the approval of the Department.

d) The written plan of compliance shall be sent to the Department's Probation Compliance Unit at the address included in the chaperone order.

e) No licensed health care worker subject to a chaperone order shall have any patient encounters until the Department has approved his or her written plan of compliance. After approval of the written plan of compliance, the licensed health care worker subject to a chaperone order shall notify the Department in writing if the licensure status of any approved chaperone changes or if a chaperone can no longer serve for any reason. A chaperone approved by the Department shall automatically become ineligible to serve as a chaperone if his or her license is disciplined by the Department, expires or changes to a status that does not permit active practice. The licensed health care worker subject to a chaperone order shall provide, in writing to the Department, the name, mailing address, email address, telephone number and license number of any replacement or additional proposed chaperone, including the scheduled days, hours and practice location for any replacement or additional chaperone proposed to be utilized. No person may act as chaperone until approved by the Department. No licensed health care worker subject to a chaperone order and acting under an approved written plan of compliance shall have any patient encounters without the presence of an approved chaperone. Failure to comply with all requirements of the approved written plan of compliance shall be prima facie evidence of practice without a chaperone.

f) The chaperone shall provide written notice of the chaperone order, by using the form provided in Appendix A or by using his or her own form that is substantially similar to the form in Appendix A, to each of the licensed health care worker's patients at the time of the patient's first visit following the effective date of the chaperone order. A copy of the notice shall be signed by the patient and the chaperone and maintained in the patient's file. The chaperone shall also provide a copy of the signed notice to the patient.

g) A pharmacist subject to a chaperone order shall not be required to include in the written plan of compliance methods of documenting the presence of a chaperone as specified in subsection (b)(5) and notice to patients as specified in subsection

(f). In place of these requirements, the pharmacist shall include in the written plan of compliance that the presence of a chaperone while the pharmacist is on duty at a pharmacy shall be shown by maintaining a written schedule of the dates, times and locations each chaperone works and having the designated chaperone verify by signature his or her presence for the dates, times and locations stated.

h) Any health care worker subject to a chaperone order may submit a request to the Director for a waiver of any of the requirements of subsections (b) and (f) to allow for the creation of an individually tailored written plan of compliance that achieves the objectives of the Code and this Part.

i) The Department may conduct random inspections and audits to determine compliance with the chaperone order and the written plan of compliance. A licensed health care worker subject to a chaperone order and any approved chaperones shall cooperate with any inspection or audit.

j) If the Secretary finds that evidence in his or her possession indicates that a licensed health care worker subject to a chaperone order has failed to comply with the chaperone order, failed to file a written plan of compliance, or failed to follow the terms of the written plan of compliance, he or she may temporarily suspend without hearing the license of the health care worker until completion of the criminal proceedings. In instances in which the Secretary temporarily suspends a license under this Section, a hearing upon that person's license must be commenced within 15 days after the suspension has occurred and shall be completed without appreciable delay. The Secretary shall appoint an Illinois licensed attorney to serve as hearing officer in those hearings. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendation to the Secretary. The burden of proof rests with the Department in hearings conducted under this Section, and a recommendation that the license shall remain temporarily suspended shall be made by the hearing officer when the Department establishes by clear and convincing evidence that the licensed health care worker subject to a chaperone order has failed to comply with the chaperone order, failed to file a written plan of compliance, or failed to follow the terms of the written plan of compliance. No temporary suspension shall be stayed during the pendency of any hearing.

k) Any information collected by the Department to investigate compliance with the requirements of this Section shall be maintained by the Department for the confidential use of the Department and shall not be disclosed. The Department

may not disclose the information to anyone other than law enforcement officials or regulatory agencies or persons who have an appropriate regulatory interest, as determined by the Secretary. The Department shall have access to any records created by any person in compliance with the requirements of this Section or with a written plan of compliance. However, except for the purposes of the Department, these records shall be accorded the same confidentiality as required by the professional licensing Act governing the particular health care worker or as otherwise provided by law.

l) In the event that a licensed health care worker subject to a chaperone order or under a temporary suspension pursuant to this Part shall be subsequently charged with any additional offenses that would independently subject the licensed health care worker to the provisions of this Part, the existing chaperone order or temporary suspension order shall remain in effect until all pending charges are resolved by the Circuit Court.

(Source: Added at 37 Ill. Reg. 1192, effective February 1, 2013)

Section 1130.APPENDIX A Notice of Order Requiring Chaperone

NOTICE OF ORDER REQUIRING CHAPERONE

The Illinois Department of Financial and Professional Regulation has ordered ***INSERT PRACTITIONER'S NAME*** to have a chaperone who is a licensed health care worker present during all patient encounters pending the outcome of criminal charges against him/her. In compliance with this Order, please sign below to acknowledge that you have received a copy of this notice.

The health care worker is presumed innocent until proven guilty of the charges.

Patient:

_____
Print Name

_____ _____
Signature Date

Chaperone:

_____
Print Name

_____ _____
Signature Date

(Source: Added at 37 Ill. Reg. 1192, effective February 1, 2013)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Special Waste Hauling

2) Code Citation: 35 Ill. Adm. Code 809

3)

Section Numbers:	Adopted Action:
809.204	Amend
809.212	Amend

4) Statutory Authority: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Sections 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.2, and 27]

5) Effective Date of Amendments: January 15, 2013

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, and is available there for public inspection.

9) Notice of Proposal Published in *Illinois Register*: Oct. 5, 2012; 36 Ill. Reg. 14600

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

11) Differences between Proposal and Final Version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements were necessary.

13) Will this rulemaking replace any emergency rulemakings currently in effect? No

14) Are there any proposed rulemakings pending on this Part? No

15) Summary and Purpose of Amendments: A more complete description of this proposal may be found in the Board's opinion and order of January 10, 2013 in docket R13-08.

The Board proposed these amendments to implement a provision of Public Act 97-1081,

effective August 24, 2012, which amends Section 22.2(l) of the Environmental Protection Act (Act) by extending the duration of special waste hauling permits from one year to three years. *See* 415 ILCS 5/22.2(l) (2010); Public Act 97-1081. This extension became applicable on January 1, 2013. The Board amends 35 Ill. Adm. Code 809.212 (Duration of Special Waste Hauling Permits) to make it consistent with this statutory revision. The Board also amends 35 Ill. Adm. Code 809.204(a) (Applications for Special Waste Hauling Permit - Filing and Final Action by the Agency) to clarify that special waste hauling permit application fees are established by statute.

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

Timothy J. Fox
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

312/814-6085
tim.fox@illinois.gov

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R13-8 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 809
SPECIAL WASTE HAULING

SUBPART A: GENERAL PROVISIONS

Section
809.101 Authority, Policy and Purposes
809.102 Severability
809.103 Definitions
809.104 Incorporations by Reference
809.105 Public Records

SUBPART B: SPECIAL WASTE HAULING PERMITS

Section
809.201 Special Waste Hauling Permits – General
809.202 Applications for Special Waste Hauling Permit – Contents
809.203 Applications for Special Waste Hauling Permit – Signatures and Authorization
809.204 Applications for Special Waste Hauling Permit – Filing and Final Action by the Agency
809.205 Special Waste Hauling Permit Conditions
809.206 Special Waste Hauling Permit Revision
809.207 Transfer of Special Waste Hauling Permits
809.208 Special Waste Hauling Permit Revocation
809.209 Permit No Defense
809.210 General Exemption from Special Waste Hauling Permit Requirements
809.211 Exemptions for Special Waste Transporters
809.212 Duration of Special Waste Hauling Permits
809.213 Compliance with Federal Requirements

SUBPART C: DELIVERY AND ACCEPTANCE

Section
809.301 Requirements for Delivery of Special Waste to Transporters

809.302 Requirements for Acceptance of Special Waste from Transporters

SUBPART D: PERMIT AVAILABILITY AND SYMBOLS

Section
809.401 Permit Availability
809.402 Special Waste Symbols

SUBPART E: MANIFESTS, RECORDS AND REPORTING

Section
809.501 Manifests, Records, Access to Records, Reporting Requirements and Forms

SUBPART F: DURATION OF SPECIAL WASTE HAULER PERMITS AND TANK NUMBERS

Section
809.601 Duration of Special Waste Hauler Permits and Tank Numbers (Repealed)

SUBPART G: EMERGENCY CONTINGENCIES FOR SPILLS

Section
809.701 General Provision

SUBPART H: EFFECTIVE DATES

Section
809.801 Compliance Date
809.802 Exceptions (Repealed)

SUBPART I: HAZARDOUS (INFECTIOUS) HOSPITAL WASTE

Section
809.901 Definitions (Repealed)
809.902 Disposal Methods (Repealed)
809.903 Rendering Innocuous by Sterilization (Repealed)
809.904 Rendering Innocuous by Incineration (Repealed)
809.905 Recordkeeping Requirements for Generators (Repealed)
809.906 Defense to Enforcement Action (Repealed)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART J: REQUIREMENTS FOR HAULERS PREVIOUSLY PERMITTED UNDER THE UNIFORM PROGRAM

Section

809.910 Uniform State Hazardous Waste Transportation Registration and Permit Program (Repealed)
809.911 Application for a Uniform Permit (Repealed)
809.912 Application for Uniform Registration (Repealed)
809.913 Payment of Processing and Audit Fees (Repealed)
809.914 Payment of Apportioned Mile Fees (Repealed)
809.915 Submittal of Fees (Repealed)
809.916 Previously Permitted Transporters (Repealed)
809.917 Uniform Registration and Uniform Permit Conditions (Repealed)
809.918 Uniform Registration and Uniform Permit Revision (Repealed)
809.919 Transfer of Uniform Registration and Uniform Permits (Repealed)
809.920 Audits and Uniform Registration and Uniform Permit Revocation (Repealed)
809.921 Permit No Defense (Repealed)
809.1001 Transporters Previously Permitted Under Uniform Hazardous Waste Transportation Permit and Registration Program

809.APPENDIX A Old Rule Numbers Referenced (Repealed)

AUTHORITY: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.2 and 27] (see P.A. 90-219).

SOURCE: Adopted in R76-10, 33 PCB 131, at 3 Ill. Reg. 13, p. 155, effective March 31, 1979; emergency amendment in R76-10, 39 PCB 175, at 4 Ill. Reg. 34, p. 214, effective August 7, 1980, for a maximum of 150 days; emergency amendment in R80-19, 40 PCB 159, at 5 Ill. Reg. 270, effective January 1, 1981, for a maximum of 150 days; amended in R77-12(B), 41 PCB 369, at 5 Ill. Reg. 6384, effective May 28, 1981; amended in R80-19, 41 PCB 459, at 5 Ill. Reg. 6378, effective May 31, 1981; codified in R81-9, 53 PCB 269, at 7 Ill. Reg. 13640, effective September 30, 1983; recodified in R84-5, 58 PCB 267, from Subchapter h to Subchapter i at 8 Ill. Reg. 13198; amended in R89-13A at 14 Ill. Reg. 14076, effective August 15, 1990; amended in R91-18 at 16 Ill. Reg. 130, effective January 1, 1992; amended in R95-11 at 20 Ill. Reg. 5635, effective March 27, 1996; amended in R98-29 at 23 Ill. Reg. 6842, effective July 1, 1999; amended in R00-18 at 24 Ill. Reg. 14747, effective September 25, 2000; amended in R06-20(A) at 34 Ill. Reg. 3317, effective February 25, 2010; amended in R06-20(B) at 34 Ill. Reg. 17398,

effective October 29, 2010; amended in R12-13 at 36 Ill. Reg. 12332, effective July 18, 2012; amended in R13-08, at 37 Ill. Reg. 1206, effective January 15, 2013.

SUBPART B: SPECIAL WASTE HAULING PERMITS

Section 809.204 Applications for Special Waste Hauling Permit – Filing and Final Action by the Agency

a) An application for special waste hauling permit is considered filed on the date the Agency receives a properly completed application on the form prescribed or provided by the Agency and with correct fees (see Section 22.2(1) of the Act [415 ILCS 5/22.2(1)]).

b) If the Agency fails to take final action (which includes granting or denying the special waste hauling permit as requested, or by granting the special waste hauling permit with conditions) within 90 days after the date the completed application is filed, the applicant may deem the special waste hauling permit granted for a period of one calendar year commencing on the 91st day after the application was filed.

c) The Agency will send all denials by U.S. Registered or Certified Mail, Return Receipt Requested. All other final Agency decisions may go by regular U.S. Mail or electronic mail. The Agency will be deemed to have taken final action on the date that the notice of final action is mailed or sent. Within 35 days after the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.

d) The Agency will require the application to be complete. If incomplete, the application will be returned, and the transporter will be required to resubmit a complete application. The application must be consistent with the provisions of the Act and Board regulations. The Agency may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application. If the application is complete and granting it will not violate the Act or Board regulations, the Agency will grant the permit.

e) When an application is denied because it fails to comply with the Act or Board regulations, any fees submitted with the application will be non-refundable. Any subsequent re-filing of the application will be considered a new application for

which an application fee must be included in accordance with Section 22.2 of the Act.

f) When the Agency rejects an application because it is incomplete, any fees submitted will be non-refundable. The applicant can receive credit for the payment with a resubmitted application if the resubmittal is complete and returned to the Agency within 30 days after the initial date-stamped rejection.

(Source: Amended at 37 Ill. Reg. 1206, effective January 15, 2013)

Section 809.212 Duration of Special Waste Hauling Permits

a) Prior to January 1, 2013, all~~All~~ permits issued under this Part will be issued for a period not to exceed one year and are renewable. Beginning January 1, 2013, all permits under this Part will be issued for a period not to exceed three years and are renewable.

b) Applications for renewal of a special waste hauling permit should be made prior to the expiration date of the permit on the application forms prescribed in Section 809.302.

(Source: Amended at 37 Ill. Reg. 1206, effective January 15, 2013)

ILLINOIS POWER AGENCY

NOTICE OF ADOPTED RULES

1) Heading of the Part: Public Information, Rulemaking and Organization

2) Code Citation: 2 Ill. Admin. Code 3700

3)

Section Numbers:	Adopted Action:
3700.100	New
3700.110	New
3700.200	New
3700.210	New
3700.300	New
3700.400	New
3700.410	New
3700.420	New
3700.430	New
3700.500	New
3700.505	New
3700.510	New
3700.520	New
3700.530	New
3700.540	New
3700.550	New
3700.560	New
3700.570	New
3700.580	New
3700.581	New
3700.582	New
3700.583	New
3700.590	New
3700.592	New
3700.594	New
3700.APPENDIX A	New
3700.APPENDIX B	New

4) Statutory Authority: Implementing Section 4 of the Freedom of Information Act [5 ILCS 140/4] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Sections 1-20(b)(22) and (23) of the Illinois Power Agency Act [20 ILCS 3855/1-20(b)(22) and (23)]

5) Effective Date of Rules: January 17, 2013

ILLINOIS POWER AGENCY

NOTICE OF ADOPTED RULES

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file at the Illinois Power Agency's Chicago headquarters and is available for public inspection.

9) Notice of Proposed Published in the *Illinois Register*: Pursuant to Section 5-15 of the Illinois Administrative Code [5 ILCS 100/5-15], and Section 100.810 of the Secretary of State's regulations addressing rulemaking (1 Ill. Adm. Code 100.810).

10) Has JCAR issued a Statement of Objections to these Rules? No. This Part was adopted pursuant to Section 5-15 of the Illinois Administrative Code [5 ILCS 100/5-15], and Section 100.810 of the Secretary of State's regulations addressing rulemaking (1 Ill. Adm. Code 100.810).

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rules: This Part establishes public information, rulemaking and organization requirements for the Illinois Power Agency.

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

Michael Strong
Chief Legal Counsel
Illinois Power Agency
160 N. LaSalle St., Suite C-504
Chicago, IL 60601

312/814-4635

ILLINOIS POWER AGENCY

NOTICE OF ADOPTED RULES

Michael.Strong@illinois.gov

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

ILLINOIS POWER AGENCY

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER LXVII: ILLINOIS POWER AGENCY

PART 3700
ORGANIZATION, RULEMAKING AND PUBLIC INFORMATION

SUBPART A: INTRODUCTION

Section
3700.100 Scope
3700.110 Definitions

SUBPART B: ORGANIZATION

Section
3700.200 Organization
3700.210 Absence or Disability of Director

SUBPART C: RULEMAKING

Section
3700.300 Rulemaking Procedures

SUBPART D: CONTACTING THE AGENCY

Section
3700.400 Contacting the Agency
3700.410 Agency Internet Access
3700.420 Documents Filed with Agency, Confidentiality Preserved
3700.430 Confidential Information

SUBPART E: FREEDOM OF INFORMATION REQUESTS

3700.500 Requests for Public Records
3700.505 Freedom of Information Officer
3700.510 Records that Will Be Disclosed
3700.520 Records that Will Be Withheld from Disclosure
3700.530 Statutory Exemptions

ILLINOIS POWER AGENCY

NOTICE OF ADOPTED RULES

3700.540 Requests for Records for Commercial Purposes
3700.550 Timeline for Agency Response
3700.560 Requests for Records that the Agency Considers Unduly Burdensome
3700.570 Requests for Records that Require Electronic Retrieval
3700.580 Denials of Requests for Records
3700.581 Requests for Review of Denials – Public Access Counselor
3700.582 Circuit Court Review
3700.583 Administrative Review
3700.590 Inspection of Records
3700.592 Copying of Records; Fees
3700.594 Reduction and Waiver of Fees

3700.APPENDIX A Organization Chart
3700.APPENDIX B FOIA Fees

AUTHORITY: Implementing provisions of Section 5-15(a) of the Illinois Administrative Procedure Act [5 ILCS 100/5-15(a)]; reflecting requirements set out in Section 20-5 of the State Officials and Employees Ethics Act [5 ILCS 430/20-5(d-6)] and Sections 1-70, 1-75, 1-80 and 1-120 of the Illinois Power Agency Act [20 ILCS 3855/1-25, 1-70, 1-75, 1-80 and 1-120]; and furthering policy of and implementing Sections 1-20(b)(22) and 1-25 of the Illinois Power Agency Act [20 ILCS 3855/1-20(b)(22) and 1-25)].

SOURCE: Adopted at 37 Ill. Reg. 1213, effective January 17, 2013.

SUBPART A: INTRODUCTION

Section 3700.100 Scope

This Part satisfies the rulemaking requirements of Section 5-15 of the IAPA and implements Section 4 of FOIA.

Section 3700.110 Definitions

"Act" shall mean the Illinois Power Agency Act [20 ILCS 3855].

"Agency" shall mean the Illinois Power Agency.

"Commercial purpose" means the use of any part of a record or records, or information derived from records, in any form for sale, resale, or solicitation or

advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is:

to access and disseminate information concerning news and current or passing events;

for articles or opinion or features of interest to the public; or

for the purpose of academic, scientific, or public research or education. (Section 2(c-10) of FOIA)

"Copying" means the reproduction of any record by means of any photographic, electronic, mechanical, or other process, device or means now known or hereafter developed and available to the Agency. (Section 2(d) of FOIA)

"Director" shall mean the Director or Acting Director of the Agency or, if the position of Director is not filled, the Director Pro Tem as defined in Section 3700.210.

"FOIA" shall mean the Illinois Freedom of Information Act [5 ILCS 140].

"IAPA" shall mean the Illinois Administrative Procedure Act [5 ILCS 100].

"News media" means a newspaper or other periodical issued at regular intervals, news service in paper or electronic form, radio station, television station, television network, community antenna television service, or person or corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

"Person" means any individual, corporation, partnership, firm, organization or association, acting individually or as a group. (Section 2(b) of FOIA)

"Private information" means unique identifiers, including a person's Social Security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license

plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. (Section 2(c-5) of FOIA)

"Public Access Counselor" means an individual appointed to that office by the Attorney General under Section 7 of the Attorney General Act [15 ILCS 205].

"Public body" means all legislative, executive, administrative, or advisory bodies of the State, State universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, any subsidiary bodies of any of the foregoing, including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code [105 ILCS 5]. (Section 2(a) of FOIA)

"Records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of or under the control of the Agency. (Section 2(c) of FOIA)

"Requester" is any person who has submitted to the Agency a written request, electronically or on paper, for records.

"Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. (Section 7(1)(c) of FOIA)

SUBPART B: ORGANIZATION

Section 3700.200 Organization

a) The Agency shall have a Director appointed pursuant to Section 20-5(d-6) of the State Officials and Employees Ethics Act [5 ILCS 430/20-5(d-6)].

b) The Agency's Director shall serve as the chief executive officer of the Agency.

c) The Director or the Director's designee shall submit for approval by the Agency a proposed operating budget for the next fiscal year.

d) The Director shall supervise the activities of the Agency staff in fulfillment of and compliance with the requirements of the Illinois Power Agency Act and requirements of all other authorizing Acts.

e) The Agency staff shall be considered under the employ of the Agency for all purposes.

1) The organization and duties of the Agency and its staff are established by the Director, and as provided by Sections 1-70, 1-75 and 1-80 of the Act. The organization structure of the Agency is as depicted in Appendix A.

2) The Agency shall have positions for a Chief Fiscal Officer and a Chief Legal Counsel, who shall report to the Director and coordinate with and provide support to the Bureau Chiefs and the respective bureaus. The Chief Fiscal Officer and Chief Legal Counsel may, through the Director, hire such staff as the Director determines to be necessary to carry out their respective duties.

3) The Agency may also employ other professional staff to carry out its functions and mandates.

4) To the extent that one or more positions in the Agency organization are open, the Director may assign current staff or procure outside consultants (to the extent authorized by law) to fulfill the tasks of the open positions.

Section 3700.210 Absence or Disability of Director

The Director may select a person or position title who shall serve as Director Pro Tem in the event of absence or disability of the Director. In the event no selection has been made, the Bureau Chief with the most service time with the Agency shall serve as Director Pro Tem.

SUBPART C: RULEMAKING

Section 3700.300 Rulemaking Procedures

a) Proposed rules shall be drafted by the Agency's legal counsel with appropriate participation of other agency staff members. Proposed rules are circulated to the Director and other appropriate Agency staff members for review and comment. Final adopted rules shall only be approved by the Director.

b) Any interested person may request that the Agency make, amend or repeal an Agency rule.

1) The request shall be addressed to:

Chief Legal Counsel
Illinois Power Agency
Michael A. Bilandic Building
160 N. LaSalle St., Suite C-504
Chicago IL 60601

2) The request shall contain a clear statement of reasons for the proposed rule, amendment or repeal and the exact language of the suggested new rule or amendment. The request shall also contain contact information for the submitting individual or entity, including name, address, telephone number and electronic mail address.

3) At least two copies shall be sent or delivered to the Director at the Agency's Chicago office. Any request filed in accordance with this Section shall be considered by the Director and the requestor shall be notified in writing as to its disposition. Any person may send a copy via electronic mail instead of two paper copies.

4) If, within 30 days after submission of the request to the Agency, the Agency has not initiated rulemaking proceedings in accordance with Section 5-35 of the IAPA, the request shall be deemed to have been denied.

SUBPART D: CONTACTING THE AGENCY

Section 3700.400 Contacting the Agency

a) Filing Documents with the Agency

1) To the extent that an authorizing Act, Agency rule, or formal request by the Agency provided to a party requires a specific procedure or recipient list for filing a document, the party shall follow that procedure.

2) If no Authorizing Act, Agency rule, or formal Agency request has been issued, a document shall be considered "filed" if it is sent by regular or electronic mail to the Director or the Director's designee. If the Authorizing Act, Agency rule, or formal Agency request does not identify a designee, transmission by regular or electronic mail to the Director is sufficient.

b) For all agency inquiries other than filing of documents as described in subsection (a) or petitions for rulemaking pursuant to Section 3700.300, any interested person may contact the Agency through its website set out in Section 3700.410 or by U.S. mail to:

Illinois Power Agency
Michael A. Bilandic Building
160 N. LaSalle St., Suite C-504
Chicago IL 60601

Section 3700.410 Agency Internet Access

The Agency shall maintain an internet domain website to provide information regarding the Agency's activities. The internet site is located at http://www.illinois.gov/ipa. The Agency will comply with the State of Illinois Information Technology Accessibility Act [30 ILCS 587].

Section 3700.420 Documents Filed with Agency, Confidentiality Preserved

a) Documents filed with the Agency may be posted on the Agency website identified in Section 3700.410 of this Part. All documents that the Agency must post pursuant to law or regulation shall be posted to the website.

b) *The Agency shall provide adequate protection for confidential and proprietary information furnished, delivered, or filed by any person, corporation, or other entity* [20 ILCS 3855/1-120]. To the extent any interested party or individual provides confidential or proprietary information, the Agency may request a non-confidential, redacted version for public posting.

ILLINOIS POWER AGENCY

NOTICE OF ADOPTED RULES

Section 3700.430 Confidential Information

a) Any party may request a written predetermination from the Director as to whether information to be provided to the Agency is *confidential and proprietary information* prior to the information being *furnished, delivered, or filed by any person, corporation, or other entity* [20 ILCS 3855/1-120]. The request must come in writing, via regular mail or electronic mail, to the Director. The Director or the Director's designee shall reply within 10 business days.

b) Nothing in this Part shall inhibit the ability for the Agency to enter into agreements to protect confidential information of any interested party or individual seeking protection of confidential information pursuant to Section 1-120 of the Act [20 ILCS 3855].

c) The Agency will attempt to protect from disclosure under FOIA any information the Agency determines to be confidential, whether or not subject to a confidentiality agreement, to the extent authorized by Illinois law and pursuant to Subpart E of this Part.

SUBPART E: FREEDOM OF INFORMATION REQUESTS

Section 3700.500 Requests for Public Records

a) All requests for public records shall be submitted in writing in one of the following manners:

1) Via regular mail to the address listed in Section 3700.300(b)(1) of this Part, to the attention of the Chief Legal Counsel, "FOIA Request".

2) Electronically, using the feedback form on the Agency's website located at: http://www2.illinois.gov/ipa/Pages/Feedback_Form.aspx. If submitted electronically, the request must conspicuously mention "Freedom of Information Act", "FOIA", or 5 ILCS 140.

3) Via hand delivery, to the Chief Legal Counsel at the Agency's headquarters at the address listed in Section 3700.300(b)(1) of this Part. If submitted by hand delivery, the request must conspicuously include in writing "Freedom of Information Act", "FOIA", or 5 ILCS 140.

4) Via fax. If submitted by fax, the request must conspicuously mention "Freedom of Information Act", "FOIA", or 5 ILCS 140.

b) Requirements for each request

1) A request must include the requestor's name, street address and telephone number. If the request is made electronically pursuant to subsection (a)(2) of this Section, the entry blanks for name, street address and telephone number may be used.

2) As specific a description as possible of the records sought. Requests that the Agency considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 3700.560 of this Part.);

3) A statement as to the requested medium and format for the Agency to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape;

4) A statement as to the requested manner for the Agency to use in providing the records sought: for example, inspection at Agency headquarters or providing paper or electronic copies;

5) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification; and

6) A statement as to whether the request is for a commercial purpose.

Section 3700.505 Freedom of Information Officer

Any duties required of the Freedom of Information Officer under FOIA shall be carried out by or under the supervision of the Agency's Chief Legal Counsel.

Section 3700.510 Records that Will Be Disclosed

Upon request meeting the requirements of this Part, the Agency shall disclose to the requester all records requested except that it shall not disclose certain records as provided in Sections 3700.520 or 3700.530 of this Part. Records covered under this Section shall include, but are not limited to:

a) *Records of funds. All records relating to the obligation, receipt and use of public funds of the Agency are records subject to inspection and copying by the public.* (Section 2.5 of FOIA)

b) *Payrolls. Certified payroll records submitted to the Agency under Section 5(a)(2) of the Prevailing Wage Act* [820 ILCS 130] *are records subject to inspection and copying in accordance with the provisions of FOIA; except that contractors' and employees' addresses, telephone numbers, and Social Security numbers will be redacted by the Agency prior to disclosure.* (Section 2.10 of FOIA)

c) *Criminal history records. The following documents maintained by the Agency pertaining to criminal history record information are records subject to inspection and copying by the public pursuant to FOIA:*

1) *Court records that are public;*

2) *Records that are otherwise available under State or local law; and*

3) *Records in which the requesting party is the individual identified, except as provided under* Section 3700.520(a)(5)(F) of this Part. (Section 2.15(b) of FOIA)

d) *Settlement agreements. All settlement agreements entered into by or on behalf of the Agency are records subject to inspection and copying by the public, provided that information exempt from disclosure under* Sections 3700.520 or 3700.530 of this Part *may be redacted.* (Section 2.20 of FOIA)

Section 3700.520 Records that Will Be Withheld from Disclosure

When a request is made to inspect or copy a record that contains information that is otherwise exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the Agency shall make the remaining information available for inspection and copying. (Section 7(1) of FOIA)

a) *Subject to this requirement and Section 7 of FOIA, the following shall be exempt from inspection and copying:*

1) *Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law;* (Section 7(1)(a) of FOIA)

2) *Private information, unless disclosure is required by another provision of FOIA, a State or federal law or a court order;* (Section 7(1)(b) of FOIA)

3) *Files, documents, and other data or databases maintained by one or more law enforcement agencies and specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subject*s; (Section 7(1)(b-5) of FOIA)

4) *Personal information contained within records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy;* (Section 7(1)(c) of FOIA)

5) *Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:*

   A) *Interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;*

   B) *Interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request;*

   C) *Create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;*

D) *Unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the Agency will provide traffic accident reports, the identities of witnesses to traffic accidents, and rescue reports, except when disclosure would interfere with an active criminal investigation;*

E) *Disclose unique or specialized investigative techniques other than those generally used and known, or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the Agency;*

F) *Endanger the life or physical safety of law enforcement personnel or any other person; or*

G) *Obstruct an ongoing criminal investigation by the Agency;* (Section 7(1)(d) of FOIA)

6) *Records that relate to or affect the security of correctional institutions and detention facilities;* (Section 7(1)(e) of FOIA)

7) *Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the Agency. The exemption provided in this* subsection (a)(7) *extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents;* (Section 7(1)(f) of FOIA)

8) *Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the*

records requested. All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this subsection (a)(8) *does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this* subsection (a)(8) *does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm. Nothing in this* subsection (a)(8) *shall be construed to prevent a person or business from consenting to disclosure;* (Section 7(1)(g) of FOIA)

9) *Proposals and bids for any contract, grant, or agreement, including information that if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contract or agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made;* (Section 7(1)(h) of FOIA)

10) *Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by the Agency when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this* subsection (a)(10) *does not extend to requests made by news media as defined in* Section 3700.110 *when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public*; (Section 7(1)(i) of FOIA)

11) *The following information pertaining to educational matters:*

A) *Test questions, scoring keys, and other examination data used to administer an academic exam;*

B) *Information received by a primary or secondary school, college, or university under its procedure for the evaluation of faculty members by their academic peers;*

C) *Information concerning a school's or university's adjudication of student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and*

D) *Course materials or research materials used by faculty members;* (Section 7(1)(j) of FOIA)

12) *Architects' plans and engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security;* (Section 7(1)(k) of FOIA)

13) *Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act* [5 ILCS 120] *until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act;* (Section 7(1)(l) of FOIA)

14) *Communications between the Agency and an attorney or auditor representing the Agency that would not be subject to discovery in litigation, and materials prepared or compiled by or for the Agency in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the Agency, and materials prepared or compiled with respect to internal audits of the Agency;* (Section 7(1)(m) of FOIA)

15) *Records relating to the Agency's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed;* (Section 7(1)(n) of FOIA)

16) *Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section;* (Section 7(1)(o) of FOIA)

17) *Records relating to collective negotiating matters between the Agency and its employees or representatives, except that any final contract or agreement shall be subject to inspection and copying;* (Section 7(1)(p) of FOIA)

18) *Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment;* (Section 7(1)(q) of FOIA)

19) *The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act* [735 ILCS 30], *records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt only until a sale is consummated;* (Section 7(1)(r) of FOIA)

20) *Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice or communications;* (Section 7(1)(s) of FOIA)

21) *Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or*

insurance companies, unless disclosure is otherwise required by State law; (Section 7(1)(t) of FOIA)

22) *Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act* [5 ILCS 175]; (Section 7(1)(u) of FOIA)

23) *Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this* subsection (a)(23) *may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations;* (Section 7(1)(v) of FOIA)

24) *Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency;* (Section 7(1)(x) of FOIA)

25) *Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act* [20 ILCS 3855] *and Section 16-111.5 of the Public Utilities Act* [220 ILCS 5] *that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission;* (Section 7(1)(y) of FOIA)

26) *Information about students exempted from disclosure under Section 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009* [110 ILCS 26]; (Section 7(1)(z) of FOIA)

27) *Information the disclosure of which is exempted under the Viatical Settlements Act of 2009* [215 ILCS 158]; (Section 7(1)(aa) of FOIA)

28) *Information regarding interments, entombments, or inurnments of human remains that are submitted to the Cemetery Oversight Database under the Cemetery Care Act* [760 ILCS 100] *or the Cemetery Oversight Act* [225 ILCS 411], *whichever is applicable.* (Section 7(1)(bb) of FOIA)

b) *A record that is not in the possession of the Agency but is in the possession of a party with whom the Agency has contracted to perform a governmental function on behalf of the Agency, and that directly relates to the governmental function and is not otherwise exempt under FOIA, shall be considered a record of the Agency for purposes of* Subpart C. (Section 7(2) of FOIA)

Section 3700.530 Statutory Exemptions

To the extent provided for by the following statutes, the following shall be exempt from inspection and copying:

a) *All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act* [20 ILCS 700].

b) *Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act* [75 ILCS 70].

c) *Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.*

d) *Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act* [410 ILCS 325].

e) *Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act* [420 ILCS 44].

f) *Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act* [30 ILCS 535].

g) *Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act* [110 ILCS 979].

h) *Information the disclosure of which is exempted under the State Officials and Employees Ethics Act* [5 ILCS 430] *and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.*

i) *Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code* [65 ILCS 5].

j) *Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act* [20 ILCS 2605].

k) *Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code* [625 ILCS 5].

l) *Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act* [210 ILCS 28].

m) *Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act* [765 ILCS 77], *except to the extent authorized under that Article.*

n) *Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act* [725 ILCS 124]. *This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.*

o) *Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act* [410 ILCS 525].

p) *Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act* [70 ILCS 3615] *or the St. Clair County Transit District under the Bi-State Transit Safety Act* [45 ILCS 111].

q) *Information prohibited from being disclosed by the Personnel Records Review Act* [820 ILCS 40].

r) *Information prohibited from being disclosed by the Illinois School Student Records Act* [105 ILCS 10].

s) *Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act* [220 ILCS 5]. (Section 7.5 of FOIA)

Section 3700.540 Requests for Records for Commercial Purposes

a) *It is a violation of FOIA for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose if requested to do so by the Agency.* (Section 3.1(c) of FOIA)

b) *The Agency shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:*

1) *Provide to the requester an estimate of the time required by the Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;*

2) *Deny the request pursuant to one or more of the exemptions set out in* Sections 3700.520 or 3700.530 of this Part;

3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*

4) *Provide the records requested.* (Section 3.1(a) of FOIA)

c) *Unless the records are exempt from disclosure, the Agency shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.* (Section 3.1(b) of FOIA)

Section 3700.550 Timeline for Agency Response

a) Except as stated in subsection (b) or (c), the Agency will respond to any written *request for records within 5 business days after its receipt of the request. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Agency fails to respond to a request within the requisite periods in this* subsection (a) *but thereafter provides the requester with copies of the requested records, it will not impose a fee for such copies. If the Agency fails to respond to a request received, it will not treat the request as unduly burdensome as provided under* Section 3700.560. (Section 3(d) of FOIA) A written request from the Agency to provide additional information shall be considered a response to the FOIA request.

b) *The time limits prescribed in* subsection (a) *may be extended for not more than 5 business days from the original due date for any of the following reasons:*

1) *The requested records are stored in whole or in part at locations other than the office having charge of the requested records;*

2) *The request requires the collection of a substantial number of specified records;*

3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*

4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*

5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are*

exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions;

6) *The request for records cannot be complied with by the Agency within the time limits prescribed by* subsection (a) *without unduly burdening or interfering with the operations of the Agency; or*

7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request.* (Section 3(e) of FOIA)

c) *The person making a request and the Agency may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Agency agree to extend the period for compliance, a failure by the Agency to comply with any previous deadlines shall not be treated as a denial of the request for the records.* (Section 3(e) of FOIA)

d) *When additional time is required for any of the reasons* set forth in subsection (b), *the Agency will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Agency fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records, it may not impose a fee for those copies. If the Agency issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under* Section 3700.560. (Section 3(f) of FOIA)

Section 3700.560 Requests for Records that the Agency Considers Unduly Burdensome

a) *The Agency will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Agency, there is no way to narrow the request, and the burden on the Agency outweighs the public interest in the information. Before invoking this exemption, the Agency will extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions.* (Section 3(g) of FOIA) The amended request must be in writing.

b) If the Agency determines that a request is unduly burdensome, *it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Agency. Such a response shall be treated as a denial of the request for information.* (Section 3(g) of FOIA)

c) *Repeated requests for records that are unchanged or identical to records previously provided or properly denied under this Part from the same person shall be deemed unduly burdensome.* (Section 3(g) of FOIA)

Section 3700.570 Requests for Records that Require Electronic Retrieval

a) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.

b) The Agency will retrieve and provide electronic records only in a format and medium that is available to the Agency.

Section 3700.580 Denials of Requests for Records

a) The Agency will deny requests for records when:

1) Compliance with the request would unduly burden the Agency, as determined pursuant to Section 3700.560, and the requester has not reduced the request to manageable proportions; or

2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 3700.520 or 3700.530 of this Part.

b) The denial of a request for records must be in writing.

1) The notification shall include a description of the records denied; *the reason for the denial, including a detailed factual basis for the application of any exemption claimed; and the names and titles or positions of each person responsible for the denial* (Section 9(a) of FOIA);

2) *Each notice of denial shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor* (Section 9(a) of FOIA); and

3) *When a request for records is denied on the grounds that the records are exempt under Section 7* or 7.5 *of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority* (Section 9(b) of FOIA).

c) A requester may treat the Agency's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.

d) If the Agency has given written notice pursuant to Section 3700.550(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.

e) *Any person making a request for records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the Agency fails to act within the time periods provided in* Section 3700.550. (Section 9(c) of FOIA)

Section 3700.581 Requests for Review of Denials − Public Access Counselor

a) *A person whose request to inspect or copy a record is denied by the Agency may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial.* (Section 9.5(a) of FOIA)

b) If the Agency *asserts that the records are exempt under* Section 3700.520(a)(4) or (a)(7), *it will, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor of its intent to deny the request in whole or in part. The notice will include:*

1) *A copy of the request for access to records;*

2) *The proposed response from the Agency;* and

3) *A detailed summary of the Agency's basis for asserting the exemption.* (Section 9.5(b) of FOIA)

c) *Upon receipt of a notice of intent to deny from the Agency, the Public Access Counselor shall determine whether further inquiry is warranted.* The Public Access Counselor shall process the notification of intent to deny as detailed in Section 9.5(b) of FOIA. *Times for response or compliance by the Agency* under Section 3700.550 *will be tolled until the Public Access Counselor concludes his or her inquiry.* (Section 9.5(b) of FOIA)

d) *Within 7 working days after the Agency receives a request for review from the Public Access Counselor, the Agency shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor.* (Section 9.5(c) of FOIA)

e) *Within 7 working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the Agency may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy.* (Section 9.5(d) of FOIA)

f) *The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to the Agency.* (Section 9.5(d) of FOIA)

g) *In addition to the request for review, and the answer and response thereto, if any, a requester or the Agency may furnish affidavits or records concerning any matter germane to the review.* (Section 9.5(e) of FOIA)

h) *A binding opinion from the Attorney General shall be binding upon both the requester and the Agency, subject to administrative review under* Section 3700.583. (Section 9.5(f) of FOIA)

i) *If the Attorney General decides to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable.* (Section 9.5(f) of FOIA)

j) *Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the Agency shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under* Section 3700.583. *If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under* Section 3700.583. (Section 9.5(f) of FOIA)

k) *If the Agency discloses records in accordance with an opinion of the Attorney General, the Agency is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA.* (Section 9.5(f) of FOIA)

l) *If the requester files suit under* Section 3700.582 *with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall so notify the Agency.* (Section 9.5(g) of FOIA)

m) *The Attorney General may also issue advisory opinions to the Agency regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the* Director of the Agency or the Agency's Chief Legal Counsel, *which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Agency in order to assist in the review. If the Agency relies in good faith on an advisory opinion of the Attorney General in responding to a request, the Agency is not liable for penalties under FOIA, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor.* (Section 9.5(h) of FOIA)

Section 3700.582 Circuit Court Review

A requester also has the right to file suit for injunctive or declaratory relief in the Circuit Court for Cook County or for the county in which the requester resides, in accordance with the procedures set forth in Section 11 of FOIA.

Section 3700.583 Administrative Review

A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law [735 ILCS 5/Art. III]. An action for administrative review of a binding opinion of the

Attorney General shall be commenced in Cook County or Sangamon County. An advisory opinion issued to the Agency shall not be considered a final decision of the Attorney General for purposes of this Section. (Section 11.5 of FOIA)

Section 3700.590 Inspection of Records

a) The Agency may make available records for personal inspection at the Agency's headquarters office located at 160 N. LaSalle St., Suite C-504, Chicago IL 60601, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record. The Agency may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.

b) *When a person requests a copy of a record maintained in an electronic format, the Agency shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the records in the specified electronic format, then the Agency shall furnish it in the format in which it is maintained by the Agency, or in paper format at the option of the requester.* (Section 6(a) of FOIA)

c) A requester may inspect records by appointment only, scheduled subject to space availability. The Agency will schedule inspection appointments to take place during normal business hours, which are 9:00 a.m. to 5:00 p.m. Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform the Agency as soon as possible before the appointment.

d) In order to maintain routine Agency operations, the requester may be asked to leave the inspection area for a specified period of time.

e) The requester will have access only to the designated inspection area.

f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Agency employee may be present during the inspection.

g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

Section 3700.592 Copying of Records; Fees

a) In accordance with Section 3700.594, unless a fee is otherwise fixed by statute, the Agency will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix B.

b) *In calculating its actual cost for reproducing records or for the use of the equipment of the Agency to reproduce records, the Agency will not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records.* (Section 6(b) of FOIA)

c) In order to expedite the copying of records that the Agency cannot copy, due to the volume of the request or the operational needs of the Agency, in the timelines established in Section 3700.550, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the public records at the Agency headquarters in Section 3700.590, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record.

d) Copies of records will be provided to the requester only upon payment of any fees due. *The Agency may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Agency will not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records.* (Section 6(a) of FOIA) Payment must be by check or money order sent to the Agency, payable to "Treasurer, State of Illinois".

e) If a contractor is used to inspect or copy records, the following procedures shall apply:

1) The requester, rather than the Agency, must contract with the contractor;

2) The requester is responsible for all fees charged by the contractor;

3) The requester must notify the Agency of the contractor to be used prior to the scheduled on-site inspection or copying;

4) Only Agency personnel may provide records to the contractor;

5) The Agency must have verification that the requester has paid the Agency, if payment is due, for the copying of the records before providing the records to the contractor; and

6) The requester must provide to the Agency the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.

f) The Agency reserves its right to provide electronic records in their native form, and will not be responsible for converting documents into different formats.

Section 3700.594 Reduction and Waiver of Fees

a) *Fees may be reduced or waived by the Agency if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Agency will consider the following:*

1) *Whether the principal purpose of the request is to disseminate information regarding the health, safety, welfare or legal rights of the general public; and*

2) *Whether the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public.* (Section 6(c) of FOIA)

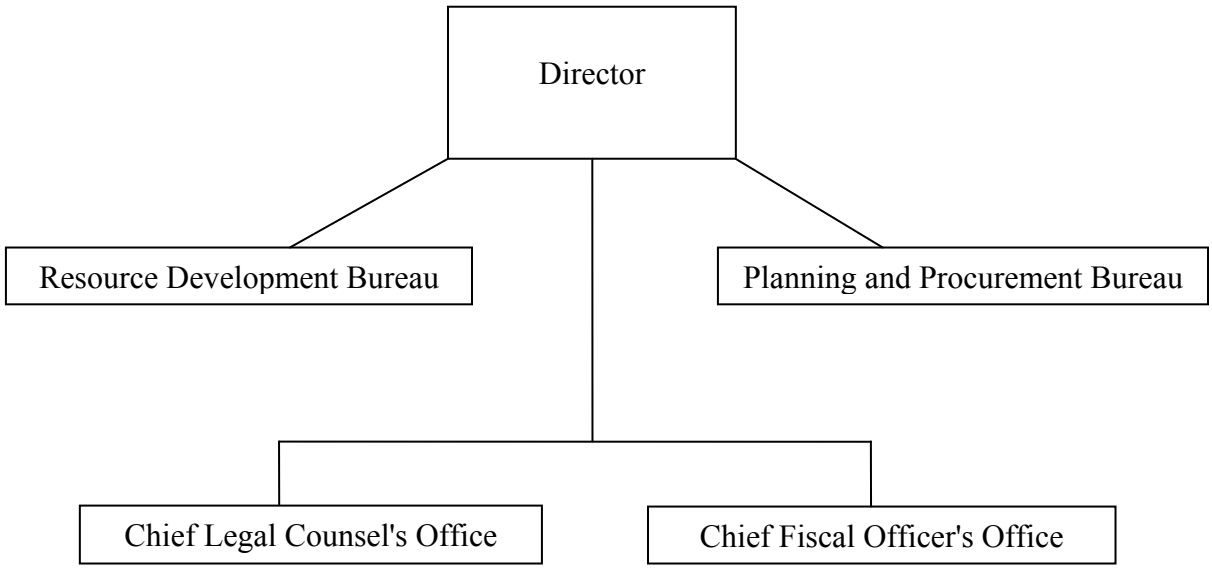
b) The Agency will provide copies of records without charge to federal, State and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.

c) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of records when furnished in a paper format will not be applicable to those records when furnished to a requester in an electronic format.* (Section 6(a) of FOIA)

ILLINOIS POWER AGENCY

NOTICE OF ADOPTED RULES

Section 3700.APPENDIX A Organization Chart



ILLINOIS POWER AGENCY

NOTICE OF ADOPTED RULES

Section 3700.APPENDIX B FOIA Fees

Subject to reductions pursuant to Section 3700.594 of this Part, the fees for FOIA requests are as follows:

Paper copies:	$0.15 per page, up to and including 300 pages $0.10 per page, above 300 pages
Electronic copies:	$3.00 per CD of information

If the Agency requires technical assistance to retrieve electronic records, the Agency will pass through its costs (if any) to the requesting party, subject to the provisions of Section 3700.592(e) of this Part.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Physical Fitness Facility Medical Emergency Preparedness Code

2) Code Citation: 77 Ill. Adm. Code 527

3)

Section Numbers:	Adopted Action:
527.200	Amended
527.600	Amended
527.1000	Amended
527.1100	Amended

4) Statutory Authority: Physical Fitness Facility Medical Emergency Preparedness Act [210 ILCS 74]

5) Effective Date of Amendments: January 18, 2013

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposed Amendments Published in the Illinois Register: October 5, 2012; 36 Ill. Reg. 14608

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

11) Differences between Proposal and Final Version: No changes were made in response to comments received during the first notice or public comment period. JCAR did not suggest any changes.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested.

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any proposed rulemakings pending on this Part? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Rulemaking: Section 527.600 is being amended to implement a portion of PA 96-748, which amended the Physical Fitness Facility Medical Emergency

Preparedness Act to require a physical fitness facility to have a trained AED user present during "staffed business hours" rather than during all physical fitness activities. Sections 527.200 and 527.1100 are being amended to update references to the Department's hearing rules. Section 527.1000 is being amended to update the mailing address for the Department's Division of Emergency Medical Services and Highway Safety.

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

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

Telephone: 217/782-2043
e-mail: dph.rules@illinois.gov

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS
TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 527
PHYSICAL FITNESS FACILITY MEDICAL EMERGENCY PREPAREDNESS CODE

Section
527.100 Definitions
527.200 Incorporated and Referenced Materials
527.300 Physical Fitness Facility
527.400 Medical Emergency Plan
527.500 Coordination with Local Emergency Medical Services Systems
527.600 Automated External Defibrillators Required
527.700 Maintenance and Testing of Automated External Defibrillators
527.800 Training
527.900 Complaints and Inspections
527.1000 Violations
527.1100 Hearings

AUTHORITY: Implementing and authorized by the Physical Fitness Facility Medical Emergency Preparedness Act [210 ILCS 74].

SOURCE: Adopted at 29 Ill. Reg. 13855, effective August 23, 2005; amended at 34 Ill. Reg. 11419, effective July 21, 2010; amended at 35 Ill. Reg. 7708, effective April 27, 2011; amended at 37 Ill. Reg. _____, effective January 18, 2013.

Section 527.200 Incorporated and Referenced Materials

a) The following private and professional organization standards are incorporated in this Part:

1) 2005 AHA Guidelines for CPR and ECC
American Heart Association
208 South LaSalle St.
Suite 900
Chicago, Illinois 60604-1197

2) American Red Cross First Aid/CPR/AED for the Workplace (2006)
American Red Cross

b) All incorporations by reference of the standards of nationally recognized organizations refer to the standards on the date specified and do not include any subsequent amendments or editions.

c) The following State of Illinois statutes are referenced in this Part:

1) Automated External Defibrillator Act [410 ILCS 4]

2) Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

3) Hospital Licensing Act [210 ILCS 85]

4) Illinois Administrative Procedure Act [5 ILCS 100]

5) Park District Code [70 ILCS 1205]

6) Chicago Park District Act [70 ILCS 1505]

7) Metro-East Park and Recreation District Act [70 ILCS 1605]

8) Downstate Forest Preserve District Act [70 ILCS 805]

9) Cook County Forest Preserve District Act [70 ILCS 810]

10) Conservation District Act [70 ILCS 410]

d) The following State of Illinois rules are referenced in this Part:

1) Automated External Defibrillator Code (77 Ill. Adm. Code 525).

2) ~~Rules of~~ Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

(Source: Amended at 37 Ill. Reg. _____, effective January 18, 2013)

Section 527.600 Automated External Defibrillators Required

a) Each~~By the compliance dates specified in Section 50 of the Act, each~~ facility shall have at least one operable AED on the premises at all times.

b) If the AED becomes inoperable, the facility shall replace or repair the AED within 10~~30~~ days. Patrons shall be notified when an operable AED is not on the premises. The AED shall be mobile and accessible at all times when the AED is operable.

c) *In the case of an outdoor physical fitness facility, the AED must be housed in a building, if any, that is within 300 feet of the outdoor facility where an event or activity is being conducted. If there is such a building within the required distance, the building must provide unimpeded and open access to the housed AED* during the time the event or activity is being conducted. *The building's entrances shall further provide marked directions to the housed AED.* (Section 15(b-10) of the Act)

d) *Facilities described in ~~paragraph (1.5) of~~ Section 5.25*(1.5) of the Act *must have an AED on site as well as a trained AED user available only during activities or events sponsored and conducted or supervised by a person or persons employed by the unit of local government, school, college, or university.* (Section 15(b-15)~~5.25~~ of the Act)

e) If multiple facilities are located on the same floor of a building, one AED can be used for multiple facilities so long as the AED is located not more than 300 feet from each facility and access to the AED is unimpeded from each facility.

f) *A physical fitness facility must ensure that there is a trained AED user on staff during staffed business hours. For purposes of* the *Act* and this Part, *"trained AED user" has the meaning ascribed to that term in Section 10 of the Automated External Defibrillator Act* and Section 527.100 of this Part.

g~~f~~) Facility owners/operators may enter into written contracts with third party operators to ensure that a proper number of AEDs and trained AED users are present during all third party sponsored activities that are not otherwise supervised by the owners/operators of the facility.

h~~g~~) Questions concerning this Part shall be directed to the following address:

Illinois Department of Public Health
Division of EMS & Highway Safety

i~~h~~) Entities requesting a formal Department determination on the application of the Act shall be subject to inspection under Section 527.900.

(Source: Amended at 37 Ill. Reg. _____, effective January 18, 2013)

Section 527.1000 Violations

a) A person violates the Act by:

1) failing to comply with the Act;

2) failing to adopt or implement a proper medical emergency plan;

3) failing to have the requisite number of AEDs on the premises; or

4) failing to have appropriate numbers of trained AED users and applicable supervisors on staff and to avoid lapses in compliance with this Code.

b) Upon receipt of a written administrative warning to a facility for an initial violation of the Act, the facility has 10 business days to respond with written comments concerning the facility's remedial response. In the entity's comments to the administrative warning, it may state, for the Department's consideration, the reasons for disagreeing with the Department's determination. The facility may waive the right to submit a written response. Whether or not the facility waives the right to respond, the facility shall~~must~~ immediately remediate the circumstances to cure the violation.

c) Upon receipt of notice of a subsequent violation of the Act, the facility has 10 business days either to pay any assigned civil monetary penalty or to request an administrative hearing. If the facility fails to pay the civil monetary penalty or to submit a request for a hearing within 10 days after receipt of the notice, then the Department will issue a final order closing the case and will refer the matter to the Attorney General for collection of any monetary penalty.

d) The Department may assess a civil monetary penalty for a second or subsequent violation based on factors including, but not limited to, compliance history, nature of the offense or severity of the injury resulting from the offenses.

e) The civil monetary penalty for a second violation of the Act is $1,500, and the penalty for a third or subsequent violation of the Act is $2,000. The Department may assess only a total $1,500 penalty for a second violation irrespective of the number of deficiencies found. For a third or subsequent violation, however, the Department may assess a separate $2,000 monetary penalty for each deficiency if more than one violation of the Act is found at a facility during the third or subsequent inspection.

f) Written comments to an administrative warning, requests for hearings, or fines shall be submitted to the following address:

Illinois Department of Public Health
Division of EMS & Highway Safety
422 S. 5th St. – 3rd Floor
~~500 East Monroe – 8th Floor~~
Springfield IL 62701

(Source: Amended at 37 Ill. Reg. _____, effective January 18, 2013)

Section 527.1100 Hearings

77 Ill. Adm. Code 100~~The Rules of~~ (Practice and Procedure in Administrative Hearings) and Article 10 of the Illinois Administrative Procedure Act (IAPA) ~~[5 ILCS 100/Art. 10]~~ shall apply to all proceedings conducted under this Part. Where the terms "license" and "licensing" are used in 77 Ill. Adm. Code 100~~Part 100~~ and the IAPA, the definitions of those terms and other terms in 77 Ill. Adm. Code 100~~Part 100~~ shall be expanded to include hearings concerning physical fitness facilities. In case of conflict between 77 Ill. Adm. Code 100~~the Rules of Practice and Procedure in Administrative Hearings~~ and the Act or the IAPA and the Act, the terms of the Act shall control.

(Source: Amended at 37 Ill. Reg. _____, effective January 18, 2013)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: General Rules, Definitions

2) Code Citation: 92 Ill. Adm. Code 1000

3) Section Number: 1000.41 — Adopted Action: Amendment

4) Statutory Authority: Implementing Section 2-105(c) of the Illinois Vehicle Code [625 ILCS 5/2-105(c)] and authorized by 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/2-104(b)]

5) Effective Date of Amendment: January 17, 2013

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposed Published in the *Illinois Register*: September 14, 2012; 36 Ill. Reg. 14084

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

11) Differences between Proposal and Final Version: No substantive changes made between proposal and adoption. All technical changes recommended by JCAR were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any proposed rulemakings pending on this Part? No

15) Summary and Purpose of Amendment: Implements revisions to 625 ILCS 5/2-105 regarding use of driver service facilities to accept applications for voter registration.

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

Nathan Maddox
Senior Legal Advisor
298 Howlett Building
Springfield, Illinois 62756

nmaddox@ilsos.net

17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? No

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1000
GENERAL RULES, DEFINITIONS

Section
1000.10 Definitions
1000.20 Appointment of Subordinates
1000.30 Reciprocity, Prorate and Forced Registration Review Board (Repealed)
1000.40 Offices of the Secretary of State
1000.41 Voter Registration at Driver Services Facilities
1000.50 Forms
1000.60 Certification of Copies of Records
1000.70 Department of Police
1000.80 Enforcement of the Illinois Vehicle Code (Repealed)
1000.90 Hearings (Repealed)
1000.110 Audits and Collections (Repealed)
1000.120 Audit Costs

AUTHORITY: Implementing Section 2-105(c) of the Illinois Vehicle Code [625 ILCS 5/2-105(c)] and authorized by 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed and effective December 15, 1970; amended at 6 Ill. Reg. 2239, effective February 1, 1982; emergency amendment at 6 Ill. Reg. 7152, effective May 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11067, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amendment at 6 Ill. Reg. 15040, effective December 1, 1982; amended at 7 Ill. Reg. 13677, effective October 14, 1983; amended at 8 Ill. Reg. 5353, effective April 6, 1984; amended at 9 Ill. Reg. 2326, effective February 1, 1985; amended at 13 Ill. Reg. 5185, effective April 1, 1989; amended at 13 Ill. Reg. 11844, effective July 1, 1989; emergency amendment at 24 Ill. Reg. 1681, effective January 14, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6950, effective April 24, 2000; emergency amendment at 25 Ill. Reg. 9376, effective July 1, 2001, for maximum of 150 days; emergency expired November 27, 2001; amended at 26 Ill. Reg. 12040, effective July 19, 2002; amended at 29 Ill. Reg. 1960, effective January 20, 2005; amended at 34 Ill. Reg. 2755, effective February 2, 2010; amended at 37 Ill. Reg. 1254, effective January 17, 2013.

Section 1000.41 Voter Registration at Driver Services Facilities

NOTICE OF ADOPTED AMENDMENT

a) The Secretary of State shall adopt the following definitions for the terms listed as follows:

~~"Compel" – to force, pressure or coerce by physical acts or words or any other means.~~

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

~~"Deputy Registrar" – any person authorized to accept registrations of electors under The Election Code (Ill. Rev. Stat. 1987, ch. 46, par. 1-1 et seq.).~~

"Driver Services Facility" or "Facility" – offices located throughout Illinois for the purpose of issuing driver's licenses and providing to the public other necessary services connected with the Secretary of State's Office.

~~"Harass" – to annoy, threaten or demand.~~

~~"Operational Areas" – write up desk or counter, motor vehicle area, validation area, written exam area, vision screening area, camera area, update area, and other areas designated by the Secretary of State.~~

~~"Partisan Activity" – any behavior which advocates a preference for a particular political party, candidate, or issue.~~

"Secretary of State" – The Secretary of State of Illinois.

b) *Pursuant to Section 1A-25 of the Election Code, the*~~The~~ *Department shall make Driver Services Facilities* ~~(facilities)~~ *available for use as* ~~*temporary*~~ *places of accepting applications for voter registration.* [625 ILCS 5/2-105(c)] ~~subject to the availability of space within a facility for such purpose and the non-interference with the operations of the facility if voter registration is allowed, as determined by the Director of the Department. Facilities shall be made available to any person or group that complies with the provisions in subsection (c).~~

c) With the exception of applicants for Temporary Visitor's Driver's Licenses issued pursuant to Section 6-105.1 of the Vehicle Code, *each person applying at a driver*

services facility for a driver's license or permit, a corrected driver's license or permit, an Illinois identification card or a corrected Illinois identification card shall be notified that the person may apply to register to vote at that facility and may also apply to transfer his or her voter registration at the facility to a different address in the State. The notification may be made in writing or verbally, issued by an employee of the Secretary of State. [625 ILCS 5/2-105(e)]

~~e) Groups requesting the use of a facility to register voters shall send a written request along with a civic organization certificate from the Illinois State Board of Elections. Individuals requesting the use of a facility to register voters shall send a written request along with certification from the Illinois State Board of Elections, or other certification from their county clerk or local board of election commissioners certifying their eligibility to register voters. All requests shall be sent to the Secretary of State, Driver Services Department, Field Services Bureau, 2701 South Dirksen Parkway, Springfield, Illinois 62723. The request shall be made at least two (2) weeks prior to the date the person or persons or groups want to use the facility. If competing requests from more than one person or group are received, a rotating schedule shall be established by the Director to provide all such persons or groups an equal opportunity to register voters. Only one person or group will be allowed to register voters on any one day.~~

d) Facilities shall be available as places of accepting applications for voter registration ~~only during the registration period as determined by the State Election Code, and in no event later than 35 days before each election. Registration shall be allowed~~ during all hours the facility is open for business.

~~e) Any persons or groups desiring to register voters in a facility shall provide the following: a sign, at least 12" x 12" in size, posted in front of the registration table, identifying the group and stating that the group is providing a voter registration service that is not affiliated with the Secretary of State, a badge for each Deputy Registrar that includes the Deputy Registrar's name and group affiliation, a table and chairs at which registration is to be conducted, and a signed statement which should be given to the Driver Services Facility Manager prior to setting up the registration tables, relieving the Secretary of State and his employees from any liability which might arise from actions of the Deputy Registrars while the Deputy Registrars are in the facility or on Secretary of State property.~~

~~f) Deputy Registrars shall not approach any person for the purpose of voter~~

~~registration, and shall remain in the immediate vicinity of the registration table when conducting registration activity. Deputy Registrars shall not harass or compel a person to register to vote. Deputy Registrars shall not impede or interfere with the business of the Department.~~

~~g) No partisan activity shall be carried out by Deputy Registrars operating at a facility, including advocacy on behalf of any political party, candidate, or issue. No partisan materials shall be distributed by Deputy Registrars, or made available on the facility premises.~~

~~h) The location of the registration activity within the facility shall be the decision of the Department to prevent interference with the examination and licensing of applicants. Space constraints shall determine the amount of floor space a Deputy Registrar may use. Deputy Registrars shall not be allowed to enter or conduct activities within "operational areas" of the Driver Services facility. The Facility Manager shall notify the Deputy Registrars which areas within the facility the location of the registration activity must be confined to prior to the Registrar's setting up of the registration tables.~~

~~i) Violations of any of the above Sections shall result in the termination of voter registration privileges within Secretary of State Facilities and a denial of future privileges to register voters within Secretary of State Facilities for the person or group responsible for the violation. The decision to deny future privileges shall be made by the Director, Department of Driver Services of the Secretary of State's Office, 2701 South Dirksen Parkway, Springfield, Illinois, 62723.~~

(Source: Amended at 37 Ill. Reg. 1254, effective January 15, 2013)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Standards for All Illinois Teachers

2) Code Citation: 23 Ill. Adm. Code 24

3)

Section Numbers:	Adopted Action:
24.10	Amendment
24.100	Amendment
24.110	Amendment
24.120	Amendment
24.130	Amendment

4) Statutory Authority: 105 ILCS 5/Art. 21 and Art. 21B

5) Effective Date of Rulemaking: January 17, 2013

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: October 5, 2012; 36 Ill. Reg. 14615

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

11) Differences between Proposal and Final Version: In the introduction to Section 24.130, a statement has been added at the beginning of the Section to acknowledge that the standards apply to both approval of teacher preparation programs and the examinations required for the issuance of a professional educator license endorsed in a teaching field.

Additionally, the date upon which existing programs must provide evidence of their alliance to the standards set forth in Section 24.130 has been extended from July 1, 2013 to December 1, 2013.

Also, in each Section, references to 23 Ill. Adm. Code 25 have been returned to the current title, "Certification".

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any other proposed rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: Part 24, Standards for All Illinois Teachers, is one of five sets of the agency's administrative rules that establish the framework for the following:

- improvement of teaching and learning;
- foundation for the design of educator preparation programs at colleges and universities;
- criteria for the approval of preparation programs at colleges and universities;
- basis for state licensure tests;
- guidelines for the induction of novice teachers; and
- foundation for ongoing professional development.

Further, the rules define the overall knowledge and skills that teachers must have in their professional roles to ensure that Illinois students meet or exceed the expectations defined by the Illinois Learning Standards.

Part 24 was promulgated in 2002 and amended in 2010 to update its provisions. The revised rules promulgated in 2010 allowed existing educator preparation programs three years (until July 1, 2013) to realign their curricula and instruction to the new standards set forth in Section 24.130. The rules now set a December 1, 2013 deadline for currently approved programs to submit to the State Board evidence of their programs' alignment to the new standards. Additionally, the rules provide that any applications for new programs submitted on or after February 1, 2013 include evidence of this alignment as well. Further, the Assessment of Professional Teaching (APT) required of candidates for licensure must be based on the new standards beginning with test administrations starting September 1, 2014.

Finally, nonsubstantive, technical changes have been made as a result of PA 97-607, effective August 26, 2011, which changes the current process of certification to a licensure system.

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Vicki Phillips, Division Administrator
Division of Preparation and Evaluation
Illinois State Board of Education
100 N. First Street, E-310
Springfield, Illinois 62777

217/782-2948

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 24
STANDARDS FOR ALL ILLINOIS TEACHERS

Section
24.10 Purpose
24.100 The Illinois Professional Teaching Standards Through June 30, 2013
24.110 Language Arts Standards for All Illinois Teachers Through June 30, 2013
24.120 Technology Standards for All Illinois Teachers Through June 30, 2013
24.130 The Illinois Professional Teaching Standards Beginning July 1, 2013

AUTHORITY: Implementing Articles 21 and 21B and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21 and 21B and 2-3.6].

SOURCE: Adopted at 26 Ill. Reg. 11847, effective July 18, 2002; amended at 34 Ill. Reg. 11505, effective July 26, 2010; amended at 37 Ill. Reg. 1260, effective January 17, 2013.

Section 24.10 Purpose

This Part establishes certain standards that shall apply to the issuance of all Illinois professional educator licenses endorsed in a teaching field~~initial teaching certificates~~. The standards set forth in this Part shall apply both to candidates for licensure~~certification~~ and to the programs that prepare them. That is:

a) approval of any preparation program or course of study in any teaching field pursuant to the State Board's rules for Certification (23 Ill. Adm. Code 25, Subpart C) shall be based on the congruence of that program's or course's content with the applicable standards identified in this Part; and

b) the examinations required for issuance of a professional educator license under Article 21B of the School Code [105 ILCS 5/21B]~~an initial teaching certificate~~ shall be based on the applicable standards set forth in this Part.

(Source: Amended at 37 Ill. Reg. 1260, effective January 17, 2013)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section 24.100 The Illinois Professional Teaching Standards Through June 30, 2013

Beginning July 1, 2013, the provisions of this Section are replaced by Section 24.130 of this Part as the minimum requirements both for the approval of any teacher preparation program or course of study in any teaching field pursuant to the State Board's rules for Certification (23 Ill. Adm. Code 25.Subpart C) and the basis of the examinations required for issuance of a professional educator license endorsed in a teaching field~~an initial teaching certificate~~. Further limitations on institutions submitting applications for approval of new teacher preparation programs or courses of study are described in Section 24.130 of this Part.

a) Content Knowledge – The competent teacher understands the central concepts, methods of inquiry, and structures of disciplines and creates learning experiences that make the content meaningful to all students.

1) Knowledge Indicators – The competent teacher:

A) Understands major concepts, assumptions, debates, principles, and theories that are central to the disciplines in which licensure~~certification~~ is sought.

B) Understands the processes of inquiry central to the discipline.

C) Understands how students' conceptual frameworks and their misconceptions for an area of knowledge can influence their learning.

D) Understands the relationship of knowledge within the discipline to other content areas and to life and career applications.

E) Understands how a student's disability affects processes of inquiry and influences patterns of learning.

2) Performance Indicators – The competent teacher:

A) Evaluates teaching resources and curriculum materials for their comprehensiveness, accuracy, and usefulness for representing particular ideas and concepts.

B) Uses differing viewpoints, theories, "ways of knowing" and

methods of inquiry in teaching subject matter concepts.

C) Engages students in generating and testing knowledge according to the process of inquiry and standards of evidence of the discipline.

D) Designs learning experiences to promote student skills in the use of technologies appropriate to the discipline.

E) Anticipates and adjusts for common misunderstandings of the disciplines that impede learning.

F) Uses a variety of explanations and multiple representations of concepts that capture key ideas to help students develop conceptual understanding.

G) Facilitates learning experiences that make connections to other content areas and to life and career experiences.

H) Designs learning experiences and utilizes adaptive devices/technology to provide access to general curricular content to individuals with disabilities.

b) Human Development and Learning – The competent teacher understands how individuals grow, develop, and learn and provides learning opportunities that support the intellectual, social, and personal development of all students.

1) Knowledge Indicators – The competent teacher:

A) Understands how students construct knowledge, acquire skills, and develop habits of mind.

B) Understands that students' physical, social, emotional, ethical, and cognitive development influences learning.

C) Understands human development, learning theory, neural science, and the ranges of individual variation within each domain.

D) Understands that differences in approaches to learning and performance interact with development.

E) Understands how to include student development factors when making instructional decisions.

F) Knows the impact of cognitive, emotional, physical, and sensory disabilities on learning and communication processes.

2) Performance Indicators – The competent teacher:

A) Analyzes individual and group performance in order to design instruction that meets learners' current needs in the cognitive, social, emotional, ethical, and physical domains at the appropriate level of development.

B) Stimulates student reflection on prior knowledge and links new ideas to already familiar ideas and experiences.

C) Introduces concepts and principles at different levels of complexity so that they are meaningful to students at varying levels of development and to students with diverse learning needs.

c) Diversity – The competent teacher understands how students differ in their approaches to learning and creates instructional opportunities that are adapted to diverse learners.

1) Knowledge Indicators – The competent teacher:

A) Understands the areas of exceptionality in learning as defined in the Individuals with Disabilities Education Act (IDEA) and the State Board's rules for Special Education (23 Ill. Adm. Code 226).

B) Understands the process of second language acquisition and strategies to support the learning of students whose first language is not English.

C) Understands how students' learning is influenced by individual experiences, talents, and prior learning, as well as language, culture, family, and community values.

D) Understands and identifies differences in approaches to learning and performance, including different learning styles, multiple intelligences, and performance modes.

E) Understands cultural and community diversity through a well-grounded framework and understands how to learn about and incorporate students' experiences, cultures, and community resources into instruction.

F) Understands personal cultural perspectives and biases and their effects on one's teaching.

2) Performance Indicators – The competent teacher:

A) Facilitates a learning community in which individual differences are respected.

B) Makes appropriate provisions (in terms of time and circumstances for work, tasks assigned, communication, and response modes) for individual students who have particular learning differences or needs.

C) Uses information about students' families, cultures, and communities as a basis for connecting instruction to students' experiences.

D) Uses cultural diversity and individual student experiences to enrich instruction.

E) Uses a wide range of instructional strategies and technologies to meet and enhance diverse student needs.

F) Identifies and designs instruction appropriate to students' stages of development, learning styles, strengths and needs.

G) Identifies when and how to develop and implement strategies and interventions within the classroom and how to access appropriate services or resources to assist students with exceptional learning needs.

H) Demonstrates positive regard for individual students and their families regardless of culture, religion, gender, sexual orientation, and varying abilities.

d) Planning for Instruction – The competent teacher understands instructional planning and designs instruction based upon knowledge of the discipline, students, the community, and curriculum goals.

1) Knowledge Indicators – The competent teacher:

A) Understands the Illinois Learning Standards, curriculum development, content, learning theory, and student development and knows how to incorporate this knowledge in planning instruction.

B) Understands how to develop short- and long-range plans consistent with curriculum goals, learner diversity, and learning theory.

C) Understands how to take the contextual considerations of instructional materials, individual students' interests, and career needs into account in planning instruction that creates an effective bridge between students' experiences and career and educational goals.

D) Understands when and how to adjust plans based on students' responses and other contingencies.

E) Understands how to integrate technology into classroom instruction.

F) Understands how to review and evaluate educational technologies to determine instructional value.

G) Understands how to use various technological tools to access and manage information.

H) Understands the uses of technology to address students' needs.

2) Performance Indicators – The competent teacher:

A) Establishes expectations for students' learning.

B) Applies principles of scope and sequence when planning curriculum and instruction.

C) Creates short-range and long-term plans to achieve the expectations for students' learning.

D) Creates and selects learning materials and learning experiences appropriate for the discipline and curriculum goals, relevant to the students, and based on students' prior knowledge and principles of effective instruction.

E) Creates multiple learning activities that allow for variation in students' learning styles and performance modes.

F) Incorporates experiences into instructional practices that relate to the students' current life experiences and to future career and work experiences.

G) Creates approaches to learning that are interdisciplinary and that integrate multiple content areas.

H) Develops plans based on students' responses and provides for different pathways based on students' needs.

I) Uses teaching resources and materials which have been evaluated for accuracy and usefulness.

J) Accesses and uses a wide range of information and instructional technologies to enhance students' learning.

K) Uses individualized education program (IEP) goals and objectives to plan instruction for students with disabilities.

e) Learning Environment – The competent teacher uses an understanding of individual and group motivation and behavior to create a learning environment

that encourages positive social interaction, active engagement in learning, and self-motivation.

1) Knowledge Indicators – The competent teacher:

A) Understands principles of and strategies for effective classroom management.

B) Understands how individuals influence groups and how groups function in society.

C) Understands how to help students work cooperatively and productively in groups.

D) Understands factors that influence motivation and engagement and how to help students become self-motivated.

E) Knows procedures for inventorying the instructional environment to determine when and how best to meet a student's individual needs.

F) Knows applicable statutes, rules and regulations, procedural safeguards, and ethical considerations regarding planning and implementing behavioral change programs for individuals with disabilities.

G) Knows strategies for intervening in situations to prevent crises from developing or escalating.

H) Knows environmental arrangements that promote positive behavior and learning for students with diverse learning characteristics.

2) Performance Indicators – The competent teacher:

A) Maintains proper classroom decorum.

B) Maximizes the amount of class time spent in learning by creating expectations and processes for communication and behavior along with a physical setting conducive to achieving classroom goals.

C) Uses strategies to create a smoothly functioning learning community in which students assume responsibility for themselves and one another, participate in decision-making, work collaboratively and independently, use appropriate technology, and engage in purposeful learning activities.

D) Analyzes the classroom environment and makes decisions to enhance social relationships, students' motivation and engagement in productive work through mutual respect, cooperation, and support for one another.

E) Organizes, allocates, and manages time, materials, and physical space to provide active and equitable engagement of students in productive tasks.

F) Engages students in and monitors individual and group learning activities that help them develop the motivation to achieve.

G) Demonstrates a variety of effective behavior management techniques appropriate to the needs of all students, including those with disabilities (including implementing the least intrusive intervention consistent with the needs of these students).

H) Modifies the learning environment (including the schedule and physical arrangement) to facilitate appropriate behaviors and learning for students with diverse learning characteristics.

I) Uses a variety of approaches to promote social interaction between students with disabilities and students without disabilities.

J) Uses effective methods for teaching social skill development in all students.

f) Instructional Delivery – The competent teacher understands and uses a variety of instructional strategies to encourage students' development of critical thinking, problem-solving, and performance skills.

1) Knowledge Indicators – The competent teacher:

A) Understands the cognitive processes associated with various kinds of learning and how these processes can be stimulated.

B) Understands principles and techniques, along with advantages and limitations, associated with various instructional strategies.

C) Knows how to enhance learning through the use of a wide variety of materials as well as human and technological resources.

D) Understands the disciplinary and interdisciplinary approaches to learning and how they relate to life and career experiences.

E) Knows techniques for modifying instructional methods, materials, and the environment to facilitate learning for students with disabilities and/or diverse learning characteristics.

2) Performance Indicators – The competent teacher:

A) Evaluates how to achieve learning goals, choosing alternative teaching strategies and materials to achieve different instructional purposes and to meet students' needs.

B) Uses multiple teaching and learning strategies to engage students in active learning opportunities that promote the development of critical thinking, problem-solving, and performance capabilities and that help students assume responsibility for identifying and using learning resources.

C) Monitors and adjusts strategies in response to learners' feedback.

D) Varies his or her role in the instructional process as instructor, facilitator, coach, or audience in relation to the content and purposes of instruction and the needs of students.

E) Develops a variety of clear, accurate presentations and representations of concepts, using alternative explanations to assist students' understanding and presenting diverse perspectives to encourage critical thinking.

F) Uses a wide range of instructional technologies to enhance students' learning.

G) Develops curriculum that demonstrates an interconnection between subject areas that will reflect life and career experiences.

H) Uses strategies and techniques for facilitating meaningful inclusion of individuals with disabilities.

I) Uses technology appropriately to accomplish instructional objectives.

J) Adapts the general curriculum and uses instructional strategies and materials according to characteristics of the learner.

K) Implements and evaluates individual learning objectives.

g) Communication – The competent teacher uses knowledge of effective written, verbal, non-verbal, and visual communication techniques to foster active inquiry, collaboration, and supportive interaction in the classroom.

1) Knowledge Indicators – The competent teacher:

A) Understands communication theory, language development, and the role of language in learning.

B) Understands how cultural and gender differences can affect communication in the classroom.

C) Understands the social, intellectual, and political implications of language use and how they influence meaning.

D) Understands the importance of audience and purpose when selecting ways to communicate ideas.

2) Performance Indicators – The competent teacher:

A) Models accurate, effective communication when conveying ideas

and information and when asking questions and responding to students.

B) Uses effective questioning techniques and stimulates discussion in different ways for specific instructional purposes.

C) Creates varied opportunities for all students to use effective written, verbal, non-verbal, and visual communication.

D) Communicates with and challenges students in a supportive manner and provides students with constructive feedback.

E) Uses a variety of communication modes to effectively communicate with a diverse student population.

F) Practices effective listening, conflict resolution, and group-facilitation skills as a team member.

G) Communicates using a variety of communication tools to enrich learning opportunities.

h) Assessment – The competent teacher understands various formal and informal assessment strategies and uses them to support the continuous development of all students.

1) Knowledge Indicators – The competent teacher:

A) Understands assessment as a means of evaluating how students learn, what they know and are able to do in meeting the Illinois Learning Standards, and what kinds of experiences will support their further growth and development.

B) Understands the purposes, characteristics, and limitations of different kinds of assessments.

C) Understands measurement theory and assessment-related issues such as validity, reliability, bias, and scoring.

D) Understands how to use the results of assessment to reflect on and

modify teaching.

E) Understands how to select, construct, and use assessment strategies and instruments for diagnosis and evaluation of learning and instruction.

F) Knows legal provisions, regulations, and guidelines regarding assessment (and inclusion in statewide assessments) of individuals with disabilities.

G) Knows methods for monitoring progress of individuals with disabilities.

H) Knows strategies that consider the influence of diversity and disability on assessment, eligibility, programming, and placement of students with disabilities.

2) Performance Indicators – The competent teacher:

A) Uses assessment results to diagnose students' learning needs, align and modify instruction, and design teaching strategies.

B) Appropriately uses a variety of formal and informal assessments to evaluate the understanding, progress, and performance of the individual student and the class as a whole.

C) Involves students in self-assessment activities to help them become aware of their strengths and needs and encourages them to establish goals for learning.

D) Maintains useful and accurate records of students' work and performance and communicates students' progress knowledgeably and responsibly to students, parents, and colleagues.

E) Uses appropriate technologies to monitor and assess students' progress.

F) Collaborates with families and other professionals involved in the assessment of individuals with disabilities.

G) Uses various types of assessment procedures appropriately, including the adaptation of procedures for individual students in specific contexts.

H) Uses technology appropriately in conducting assessments and interpreting results.

I) Uses assessment strategies and devices which are nondiscriminatory and take into consideration the impact of disabilities, methods of communication, cultural background, and primary language on measuring knowledge and performance of students.

i) Collaborative Relationships – The competent teacher understands the role of the community in education and develops and maintains collaborative relationships with colleagues, parents/guardians, and the community to support students' learning and well-being.

1) Knowledge Indicators – The competent teacher:

A) Understands schools as organizations within the larger community context.

B) Understands the benefits, barriers, and techniques involved in parent/family relationships.

C) Understands school- and work-based learning environments and the need for collaboration with business organizations in the community.

D) Understands the collaborative process.

E) Understands collaborative skills which are necessary to carry out the collaborative process.

F) Understands concerns of parents of individuals with disabilities and knows appropriate strategies to collaborate with parents in addressing these concerns.

G) Understands roles of individuals with disabilities, parents, teachers, and other school and community personnel in planning individualized education programs for students with disabilities.

2) Performance Indicators – The competent teacher:

A) Initiates collaboration with others and creates situations where collaboration with others will enhance students' learning.

B) Works with colleagues to develop an effective learning climate within the school.

C) Participates in collaborative decision-making and problem-solving with other professionals to achieve success for students.

D) Develops relationships with parents and guardians to acquire an understanding of the students' lives outside of the school in a professional manner that is fair and equitable.

E) Works effectively with parents/guardians and other members of the community from diverse home and community situations and seeks to develop cooperative partnerships in order to promote students' learning and well-being.

F) Identifies and uses community resources to enhance students' learning and to provide opportunities for students to explore career opportunities.

G) Collaborates in the development of comprehensive individualized education programs for students with disabilities.

H) Coordinates and/or collaborates in directing the activities of a classroom para-educator, volunteer, or peer tutor.

I) Collaborates with the student and family in setting instructional goals and charting progress of students with disabilities.

J) Communicates with team members about characteristics and needs

of individuals with specific disabilities.

K) Implements and monitors individual students' programs, working in collaboration with team members.

L) Demonstrates the ability to co-teach and co-plan.

j) Reflection and Professional Growth – The competent teacher is a reflective practitioner who continually evaluates how choices and actions affect students, parents, and other professionals in the learning community and actively seeks opportunities to grow professionally.

1) Knowledge Indicators – The competent teacher:

A) Understands that reflection is an integral part of professional growth and improvement of instruction.

B) Understands methods of inquiry that provide for a variety of self-assessment and problem-solving strategies for reflecting on practice.

C) Understands major areas of research on the learning process and resources that are available for professional development.

D) Understands teachers' attitudes and behaviors that positively or negatively influence behavior of individuals with disabilities.

2) Performance Indicators – The competent teacher:

A) Uses classroom observation, information about students, pedagogical knowledge, and research as sources for active reflection, evaluation, and revision of practice.

B) Collaborates with other professionals as resources for problem-solving, generating new ideas, sharing experiences, and seeking and giving feedback.

C) Participates in professional dialogue and continuous learning to support his/her own development as a learner and a teacher.

D) Actively seeks and collaboratively shares a variety of instructional resources with colleagues.

E) Assesses his or her own needs for knowledge and skills related to teaching students with disabilities and seeks assistance and resources.

k) Professional Conduct and Leadership – The competent teacher understands education as a profession, maintains standards of professional conduct, and provides leadership to improve students' learning and well-being.

1) Knowledge Indicators – The competent teacher:

A) Understands the unique characteristics of education as a profession.

B) Understands how school systems are organized and operate.

C) Understands school policies and procedures.

D) Understands legal issues in education.

E) Understands the importance of active participation and leadership in professional organizations.

F) Is familiar with the rights of students with disabilities.

G) Knows the roles and responsibilities of teachers, parents, students, and other professionals related to special education.

H) Knows identification and referral procedures for students with disabilities.

2) Performance Indicators – The competent teacher:

A) Contributes knowledge and expertise about teaching and learning to the profession.

B) Follows codes of professional conduct and exhibits knowledge and expectations of current legal directives.

C) Follows school policy and procedures, respecting the boundaries of professional responsibilities, when working with students, colleagues, and families.

D) Initiates and develops educational projects and programs.

E) Actively participates in or leads in such activities as curriculum development, staff development, and student organizations.

F) Participates, as appropriate, in policy design and development at the local level, with professional organizations, and/or with community organizations.

G) Demonstrates commitment to developing the highest educational and quality-of-life potential of individuals with disabilities.

H) Demonstrates positive regard for individual students and their families regardless of culture, religion, gender, and sexual orientation.

I) Promotes and maintains a high level of integrity in the practice of the profession.

J) Complies with local, State, and federal monitoring and evaluation requirements related to students with disabilities.

K) Complies with local, State, and federal regulations and policies related to students with disabilities.

L) Uses a variety of instructional and intervention strategies prior to initiating a referral of a student for special education.

(Source: Amended at 37 Ill. Reg. 1260, effective January 17, 2013)

Section 24.110 Language Arts Standards for All Illinois Teachers Through June 30, 2013

Beginning July 1, 2013, the provisions of this Section are replaced by Section 24.130 of this Part as the minimum requirements both for the approval of any teacher preparation program or course of study in any teaching field pursuant to the State Board's rules for Certification (23 Ill. Adm. Code 25.Subpart C) and the basis of the examinations required for issuance of a professional educator license endorsed in a teaching field~~an initial teaching certificate~~. Further limitations on institutions submitting applications for approval of new teacher preparation programs or courses of study are described in Section 24.130 of this Part.

a) All teachers must know a broad range of literacy techniques and strategies for every aspect of communication and must be able to develop each student's ability to read, write, speak, and listen to his or her potential within the demands of the discipline.

1) Knowledge Indicators – The competent teacher:

A) Understands and can articulate the needs for literacy development in general and in specific disciplines or at specific grade levels.

B) Understands effective literacy techniques to activate prior student knowledge and build schema to enhance comprehension of "text".

C) Knows strategies and techniques for teaching communication skills to those students whose first language is not English.

2) Performance Indicators – The competent teacher:

A) Practices effectively the language processes of reading, writing, and oral communication in the daily classroom exchange between student and teacher, between student and student, between teacher and "text," and between student and "text".

B) Practices effective literacy techniques to make reading purposeful and meaningful.

C) Practices effective questioning and discussion techniques to extend content knowledge acquired from "text".

D) Uses a variety of "text" and research resources with students in an attempt to enhance students' learning from reading, learning from

writing, and learning from oral communication.

b) All teachers should model effective reading, writing, speaking, and listening skills during their direct and indirect instructional activities. The most important communicator in the classroom is the teacher, who should model English language arts skills.

1) Knowledge Indicators – The competent teacher:

A) Knows and understands the rules of English grammar, spelling, punctuation, capitalization, and syntax for both written and oral contexts.

B) Understands how to communicate ideas in writing to accomplish a variety of purposes.

2) Performance Indicators – The competent teacher:

A) Models the rules of English grammar, spelling, punctuation, capitalization, and syntax in both written and oral contexts.

B) Reads, understands, and clearly conveys ideas from texts or other supplementary materials.

C) Writes and speaks in a well-organized and coherent manner that adapts to the individual needs of readers/listeners.

D) Expresses ideas orally with explanations, examples, and support in a clear, succinct style.

E) Helps students understand a variety of modes of writing (persuasive, descriptive, informative, and narrative).

F) Listens well.

c) All teachers should give constructive instruction and feedback to students in both written and oral contexts while being aware of diverse learners' needs. Teachers should effectively provide a variety of instructional strategies, constructive feedback, criticism, and improvement strategies.

1) Knowledge Indicators – The competent teacher:

A) Understands how to analyze an audience to determine culturally appropriate communication strategies to share ideas effectively in both written and oral formats with students and their families, other faculty and administrators, and the community and business in general.

B) Understands how to use diverse instructional strategies and assessments that include an appropriate balance of lecture, discussion, activity, and written and oral work.

2) Performance Indicators – The competent teacher:

A) Analyzes content materials to determine appropriate strategies and techniques to create successful learning through reading, writing, speaking, and listening.

B) Assists students whose communication skills may be impeded by learning, language, and/or cultural differences, especially those whose first language is not English.

C) Conducts effective classroom discussions by managing groups, asking questions, eliciting and probing responses, and summarizing for comprehension.

D) Uses a variety of media to enhance and supplement instruction.

E) Uses multi-disciplinary instructional approaches.

(Source: Amended at 37 Ill. Reg. 1260, effective January 17, 2013)

Section 24.120 Technology Standards for All Illinois Teachers Through June 30, 2013

Beginning July 1, 2013, the provisions of this Section are replaced by Section 24.130 of this Part as the minimum requirements both for the approval of any teacher preparation program or course of study in any teaching field pursuant to the State Board's rules for Certification (23 Ill. Adm. Code 25.Subpart C) and the basis of the examinations required for issuance of a professional

educator license endorsed in a teaching field~~an initial teaching certificate~~. Further limitations on institutions submitting applications for approval of new teacher preparation programs or courses of study are described in Section 24.130 of this Part.

a) The competent teacher will have, and continually develop, the knowledge and skills in learning technologies to be able to appropriately and responsibly use tools, resources, processes, and systems to retrieve, assess, and evaluate information from various media. The competent teacher will use that knowledge, along with the necessary skills and information, to assist Illinois learners in solving problems, in communicating clearly, in making informed decisions, and in constructing new knowledge, products, or systems in diverse, engaged learning environments.

b) Basic Computer/Technology Operations and Concepts – The competent teacher will use computer systems to run software; to access, generate, and manipulate data; and to publish results. He or she will also evaluate performance of hardware and software components of computer systems and apply basic trouble-shooting strategies as needed.

1) Knowledge Indicator – The competent teacher understands how to run computer software; access, generate, and manipulate data; and publish results.

2) Performance Indicators – The competent teacher:

A) Operates a multi-media computer system with related peripheral devices to successfully install and use a variety of software packages.

B) Uses appropriate terminology related to computers and technology in written and oral communications.

C) Describes and implements basic trouble-shooting techniques for multi-media computer systems with related peripheral devices.

D) Uses imaging devices such as scanners, digital cameras, and/or video cameras with computer systems and software.

E) Demonstrates knowledge of uses of computers and technology in

education, business and industry, and society.

c) Personal and Professional Use of Technology – The competent teacher will apply tools for enhancing personal professional growth and productivity; will use technology in communicating, collaborating, conducting research, and solving problems and will promote equitable, ethical, and legal use of computer/technology resources.

1) Knowledge Indicator – The competent teacher understands how to use technology in communicating, collaborating, conducting research, and solving problems.

2) Performance Indicators – The competent teacher:

A) Identifies computer and other related technology resources for facilitating life-long learning and emerging roles of the learner and the educator in engaged, collaborative learning environments.

B) Uses computers and other learning technologies to support problem-solving, data collection, information management, communications, presentations, and decision-making.

C) Uses productivity tools for word processing, database management, and spreadsheet applications, and basic multi-media presentations.

D) Uses computer-based technologies including telecommunications to access information and enhance personal and professional productivity.

E) Demonstrates awareness of resources for adaptive/assistive devices for students with special needs.

F) Demonstrates knowledge of ethical and legal issues concerning use of computers and technology.

G) Adheres to copyright laws and guidelines in the access and use of information from various technologies.

H) Demonstrates knowledge of broadcast instruction, audio/video conferencing, and other distant learning applications.

I) Ensures policies and practices are in place to provide equal access to media and technology resources for students regardless of race, ethnicity, gender, religion, or socio-economic status.

d) Application of Technology in Instruction – The competent teacher will apply learning technologies that support instruction in his or her grade level and subject areas. He or she must plan and deliver instructional units that integrate a variety of software, applications, and learning tools. Lessons developed must reflect effective grouping and assessment strategies for diverse populations.

1) Knowledge Indicator – The competent teacher understands how to apply learning technologies that support instruction in his or her grade level and subject areas.

2) Performance Indicators – The competent teacher:

A) Explores, evaluates, and uses computer/technology resources, including applications, tools, educational software, and associated documentation.

B) Describes current instructional principles, research, and appropriate assessment practices as related to the use of computers and technology resources in the curriculum.

C) Designs, implements, and assesses student learning activities that integrate computers/technology for a variety of student grouping strategies and for diverse student populations.

D) Practices socially responsible, ethical, and legal use of technology, information, and software resources.

E) Designs student learning activities that foster equitable, ethical, and legal use of technology by students.

e) Social, Ethical, and Human Issues – The competent teacher will apply concepts and skills in making decisions concerning the social, ethical, and human issues

related to computing and technology. The competent teacher will understand the changes in information technologies, their effects on workplace and society, their potential to address life-long learning and workplace needs, and the consequences of misuse.

1) Knowledge Indicator – The competent teacher understands the social, ethical, and human issues related to computing and technology.

2) Performance Indicators – The competent teacher:

A) Describes the historical development and important trends affecting the evolution of technology and its probable future roles in society.

B) Describes strategies for facilitating consideration of ethical, legal, and human issues involving school purchasing and policy decisions.

f) Productivity Tools – The competent teacher will integrate advanced features of technology-based productivity tools to support instruction, extend communication outside the classroom, enhance classroom management, perform administrative routines more effectively, and become more productive in daily tasks.

1) Knowledge Indicator – The competent teacher knows advanced features of technology-based productivity tools.

2) Performance Indicators – The competent teacher:

A) Uses advanced features of word processing, desktop publishing, graphics programs, and utilities to develop professional products.

B) Uses spreadsheets for analyzing, organizing, and displaying numeric data graphically.

C) Designs and manipulates databases and generates customized reports.

D) Uses teacher utility and classroom management tools to design solutions for a specific purpose.

E) Identifies, selects, and integrates video and digital images in varying formats for use in presentations, publications, and/or other products.

F) Applies specific-purpose electronic devices (such as a graphing calculator, language translator, scientific probeware, or electronic thesaurus) in appropriate content areas.

G) Uses features of applications that integrate word processing, database, spreadsheet, communication, and other tools.

g) Telecommunications and Information Access – The competent teacher will use telecommunications and information-access resources to support instruction.

1) Knowledge Indicator – The competent teacher knows how to access telecommunications resources to support instruction.

2) Performance Indicators – The competent teacher:

A) Accesses and uses telecommunications tools and resources for information-sharing, remote information access and retrieval, and multi-media/hypermedia publishing.

B) Uses electronic mail and web browser applications for communications and for research to support instruction.

C) uses automated, on-line search tools and intelligent agents to identify and index desired information resources.

h) Research, Problem Solving, and Product Development – The competent teacher will use computers and other technologies in research, problem solving, and product development. The competent teacher will appropriately use a variety of media, presentation, and authorizing packages; plan and participate in team and collaborative projects that require critical analysis and evaluation; and present products developed.

1) Knowledge Indicator – The competent teacher understands how to use computers and other technologies in research, problem solving, and

product development.

2) Performance Indicators – The competent teacher:

A) Identifies basic principles of instructional design associated with the development of multimedia and hypermedia learning materials.

B) Develops simple hypermedia and multimedia products that apply basic instructional design principles.

C) Selects appropriate tools for communicating concepts, conducting research, and solving problems for an intended audience and purpose.

D) Identifies examples of emerging programming, authoring, or problem solving environments.

E) Collaborates with on-line workgroups to build bodies of knowledge around specific topics.

F) uses a computer projection device to support and deliver oral presentations.

G) Designs and publishes simple on-line documents that present information and include links to critical resources.

H) Develops instructional units that involve compiling, organizing, analyzing, and synthesizing of information, and uses technology to support these processes.

I) Conducts research and evaluates on-line sources of information that support and enhance the curriculum.

J) Makes use of development readings and other resource materials from professional and trade organizations to improve teaching learning.

K) Participates in courses and other professional development activities to enhance teaching and learning.

i) Information Literacy Skills – The competent teacher will develop information literacy skills to be able to access, evaluate, and use information to improve teaching and learning.

1) Knowledge Indicator – The competent teacher understands how to access, evaluate, and use information to improve teaching and learning.

2) Performance Indicators – The competent teacher:

A) Models evaluation and use of information to solve problems and make decisions.

B) Expects students to intellectually access, evaluate, and use information to solve problems and make decisions in all subject areas.

C) Structures instruction and designs learning tasks and assignments to reflect higher-level thinking skills.

D) Structures and/or facilitates cooperative learning groups as part of students' tasks and assignments.

(Source: Amended at 37 Ill. Reg. 1260, effective January 17, 2013)

Section 24.130 The Illinois Professional Teaching Standards Beginning July 1, 2013

Beginning July 1, 2013, the provisions of this Section establish the minimum requirements both for the approval of any teacher preparation program or course of study in any teaching field pursuant to the State Board's rules for Certification (23 Ill. Adm. Code 25.Subpart C) and the basis of the examinations required for issuance of a professional educator license endorsed in a teaching field. No later than December~~July~~ 1, 2013, all approved teacher preparation programs shall submit the course of study for that program with evidence that the program's or course's content is congruent with the standards identified in this Section. An application for approval of a new preparation program or course of study submitted on or after February 1, 2013,~~November 1, 2010,~~ shall provide evidence of congruence with the standards identified in this Section. No later than September 1, 2014~~September 1, 2013~~, the assessment of professional teaching (APT) required for the issuance of a professional educator license endorsed in a~~an initial~~ teaching

field~~certificate~~ under 23 Ill. Adm. Code 25.720 (Applicability of Testing Requirements and Scores~~Certification~~) shall be based on the standards set forth in this Section.

a) Teaching Diverse Students – The competent teacher understands the diverse characteristics and abilities of each student and how individuals develop and learn within the context of their social, economic, cultural, linguistic, and academic experiences. The teacher uses these experiences to create instructional opportunities that maximize student learning.

1) Knowledge Indicators – The competent teacher:

A) understands the spectrum of student diversity (e.g., race and ethnicity, socioeconomic status, special education, gifted, English language learners (ELL), sexual orientation, gender, gender identity) and the assets that each student brings to learning across the curriculum;

B) understands how each student constructs knowledge, acquires skills, and develops effective and efficient critical thinking and problem-solving capabilities;

C) understands how teaching and student learning are influenced by development (physical, social and emotional, cognitive, linguistic), past experiences, talents, prior knowledge, economic circumstances and diversity within the community;

D) understands the impact of cognitive, emotional, physical, and sensory disabilities on learning and communication pursuant to the Individuals with Disabilities Education Improvement Act (also referred to as IDEA) (20 USC 1400 et seq.), its implementing regulations (34 CFR 300; 2006), Article 14 of the School Code [105 ILCS 5/Art.14] and 23 Ill. Adm. Code 226 (Special Education);

E) understands the impact of linguistic and cultural diversity on learning and communication;

F) understands his or her personal perspectives and biases and their effects on one's teaching; and

G) understands how to identify individual needs and how to locate and access technology, services, and resources to address those needs.

2) Performance Indicators – The competent teacher:

A) analyzes and uses student information to design instruction that meets the diverse needs of students and leads to ongoing growth and achievement;

B) stimulates prior knowledge and links new ideas to already familiar ideas and experiences;

C) differentiates strategies, materials, pace, levels of complexity, and language to introduce concepts and principles so that they are meaningful to students at varying levels of development and to students with diverse learning needs;

D) facilitates a learning community in which individual differences are respected; and

E) uses information about students' individual experiences, families, cultures, and communities to create meaningful learning opportunities and enrich instruction for all students.

b) Content Area and Pedagogical Knowledge – The competent teacher has in-depth understanding of content area knowledge that includes central concepts, methods of inquiry, structures of the disciplines, and content area literacy. The teacher creates meaningful learning experiences for each student based upon interactions among content area and pedagogical knowledge, and evidence-based practice.

1) Knowledge Indicators – The competent teacher:

A) understands theories and philosophies of learning and human development as they relate to the range of students in the classroom;

B) understands major concepts, assumptions, debates, and principles; processes of inquiry; and theories that are central to the disciplines;

C) understands the cognitive processes associated with various kinds of learning (e.g., critical and creative thinking, problem-structuring and problem-solving, invention, memorization, and recall) and ensures attention to these learning processes so that students can master content standards;

D) understands the relationship of knowledge within the disciplines to other content areas and to life applications;

E) understands how diverse student characteristics and abilities affect processes of inquiry and influence patterns of learning;

F) knows how to access the tools and knowledge related to latest findings (e.g., research, practice, methodologies) and technologies in the disciplines;

G) understands the theory behind and the process for providing support to promote learning when concepts and skills are first being introduced; and

H) understands the relationship among language acquisition (first and second), literacy development, and acquisition of academic content and skills.

2) Performance Indicators – The competent teacher:

A) evaluates teaching resources and materials for appropriateness as related to curricular content and each student's needs;

B) uses differing viewpoints, theories, and methods of inquiry in teaching subject matter concepts;

C) engages students in the processes of critical thinking and inquiry and addresses standards of evidence of the disciplines;

D) demonstrates fluency in technology systems, uses technology to support instruction and enhance student learning, and designs

learning experiences to develop student skills in the application of technology appropriate to the disciplines;

E) uses a variety of explanations and multiple representations of concepts that capture key ideas to help each student develop conceptual understanding and address common misunderstandings;

F) facilitates learning experiences that make connections to other content areas and to life experiences;

G) designs learning experiences and utilizes assistive technology and digital tools to provide access to general curricular content to individuals with disabilities;

H) adjusts practice to meet the needs of each student in the content areas; and

I) applies and adapts an array of content area literacy strategies to make all subject matter accessible to each student.

c) Planning for Differentiated Instruction – The competent teacher plans and designs instruction based on content area knowledge, diverse student characteristics, student performance data, curriculum goals, and the community context. The teacher plans for ongoing student growth and achievement.

1) Knowledge Indicators – The competent teacher:

A) understands the Illinois Learning Standards (23 Ill. Adm. Code 1.Appendix D), curriculum development process, content, learning theory, assessment, and student development and knows how to incorporate this knowledge in planning differentiated instruction;

B) understands how to develop short- and long-range plans, including transition plans, consistent with curriculum goals, student diversity, and learning theory;

C) understands cultural, linguistic, cognitive, physical, and social and emotional differences, and considers the needs of each student when planning instruction;

D) understands when and how to adjust plans based on outcome data, as well as student needs, goals, and responses;

E) understands the appropriate role of technology, including assistive technology, to address student needs, as well as how to incorporate contemporary tools and resources to maximize student learning;

F) understands how to co-plan with other classroom teachers, parents or guardians, paraprofessionals, school specialists, and community representatives to design learning experiences; and

G) understands how research and data guide instructional planning, delivery, and adaptation.

2) Performance Indicators – The competent teacher:

A) establishes high expectations for each student's learning and behavior;

B) creates short-term and long-term plans to achieve the expectations for student learning;

C) uses data to plan for differentiated instruction to allow for variations in individual learning needs;

D) incorporates experiences into instructional practices that relate to a student's current life experiences and to future life experiences;

E) creates approaches to learning that are interdisciplinary and that integrate multiple content areas;

F) develops plans based on student responses and provides for different pathways based on student needs;

G) accesses and uses a wide range of information and instructional technologies to enhance a student's ongoing growth and achievement;

H) when planning instruction, addresses goals and objectives contained in plans developed under Section 504 of the Rehabilitation Act of 1973 (29 USC 794), individualized education programs (IEP) (see 23 Ill. Adm. Code 226 (Special Education)) or individual family service plans (IFSP) (see 23 Ill. Adm. Code 226 and 34 CFR 300.24; 2006);

I) works with others to adapt and modify instruction to meet individual student needs; and

J) develops or selects relevant instructional content, materials, resources, and strategies (e.g., project-based learning) for differentiating instruction.

d) Learning Environment – The competent teacher structures a safe and healthy learning environment that facilitates cultural and linguistic responsiveness, emotional well-being, self-efficacy, positive social interaction, mutual respect, active engagement, academic risk-taking, self-motivation, and personal goal-setting.

1) Knowledge Indicators – The competent teacher:

A) understands principles of and strategies for effective classroom and behavior management;

B) understands how individuals influence groups and how groups function in society;

C) understands how to help students work cooperatively and productively in groups;

D) understands factors (e.g., self-efficacy, positive social interaction) that influence motivation and engagement;

E) knows how to assess the instructional environment to determine how best to meet a student's individual needs;

F) understands laws, rules, and ethical considerations regarding behavior intervention planning and behavior management (e.g., bullying, crisis intervention, physical restraint);

G) knows strategies to implement behavior management and behavior intervention planning to ensure a safe and productive learning environment; and

H) understands the use of student data (formative and summative) to design and implement behavior management strategies.

2) Performance Indicators – The competent teacher:

A) creates a safe and healthy environment that maximizes student learning;

B) creates clear expectations and procedures for communication and behavior and a physical setting conducive to achieving classroom goals;

C) uses strategies to create a smoothly functioning learning community in which students assume responsibility for themselves and one another, participate in decision-making, work collaboratively and independently, use appropriate technology, and engage in purposeful learning activities;

D) analyzes the classroom environment and makes decisions to enhance cultural and linguistic responsiveness, mutual respect, positive social relationships, student motivation, and classroom engagement;

E) organizes, allocates, and manages time, materials, technology, and physical space to provide active and equitable engagement of students in productive learning activities;

F) engages students in and monitors individual and group-learning activities that help them develop the motivation to learn;

G) uses a variety of effective behavioral management techniques appropriate to the needs of all students that include positive behavior interventions and supports;

H) modifies the learning environment (including the schedule and physical arrangement) to facilitate appropriate behaviors and learning for students with diverse learning characteristics; and

I) analyzes student behavior data to develop and support positive behavior.

e) Instructional Delivery – The competent teacher differentiates instruction by using a variety of strategies that support critical and creative thinking, problem-solving, and continuous growth and learning. This teacher understands that the classroom is a dynamic environment requiring ongoing modification of instruction to enhance learning for each student.

1) Knowledge Indicators – The competent teacher:

A) understands the cognitive processes associated with various kinds of learning;

B) understands principles and techniques, along with advantages and limitations, associated with a wide range of evidence-based instructional practices;

C) knows how to implement effective differentiated instruction through the use of a wide variety of materials, technologies, and resources;

D) understands disciplinary and interdisciplinary instructional approaches and how they relate to life and career experiences;

E) knows techniques for modifying instructional methods, materials, and the environment to facilitate learning for students with diverse learning characteristics;

F) knows strategies to maximize student attentiveness and engagement;

G) knows how to evaluate and use student performance data to adjust instruction while teaching; and

H) understands when and how to adapt or modify instruction based on outcome data, as well as student needs, goals, and responses.

2) Performance Indicators – The competent teacher:

A) uses multiple teaching strategies, including adjusted pacing and flexible grouping, to engage students in active learning opportunities that promote the development of critical and creative thinking, problem-solving, and performance capabilities;

B) monitors and adjusts strategies in response to feedback from the student;

C) varies his or her role in the instructional process as instructor, facilitator, coach, or audience in relation to the content and purposes of instruction and the needs of students;

D) develops a variety of clear, accurate presentations and representations of concepts, using alternative explanations to assist students' understanding and presenting diverse perspectives to encourage critical and creative thinking;

E) uses strategies and techniques for facilitating meaningful inclusion of individuals with a range of abilities and experiences;

F) uses technology to accomplish differentiated instructional objectives that enhance learning for each student;

G) models and facilitates effective use of current and emerging digital tools to locate, analyze, evaluate, and use information resources to support research and learning;

H) uses student data to adapt the curriculum and implement instructional strategies and materials according to the characteristics of each student;

I) uses effective co-planning and co-teaching techniques to deliver instruction to all students;

J) maximizes instructional time (e.g., minimizes transitional time); and

K) implements appropriate evidence-based instructional strategies.

f) Reading, Writing, and Oral Communication – The competent teacher has foundational knowledge of reading, writing, and oral communication within the content area and recognizes and addresses student reading, writing, and oral communication needs to facilitate the acquisition of content knowledge.

1) Knowledge Indicators – The competent teacher:

A) understands appropriate and varied instructional approaches used before, during, and after reading, including those that develop word knowledge, vocabulary, comprehension, fluency, and strategy use in the content areas;

B) understands that the reading process involves the construction of meaning through the interactions of the reader's background knowledge and experiences, the information in the text, and the purpose of the reading situation;

C) understands communication theory, language development, and the role of language in learning;

D) understands writing processes and their importance to content learning;

E) knows and models standard conventions of written and oral communications;

F) recognizes the relationships among reading, writing, and oral communication and understands how to integrate these components to increase content learning;

G) understands how to design, select, modify, and evaluate a wide range of materials for the content areas and the reading needs of the student;

H) understands how to use a variety of formal and informal assessments to recognize and address the reading, writing, and oral communication needs of each student; and

I) knows appropriate and varied instructional approaches, including those that develop word knowledge, vocabulary, comprehension, fluency, and strategy use in the content areas.

2) Performance Indicators – The competent teacher:

A) selects, modifies, and uses a wide range of printed, visual, or auditory materials, and online resources appropriate to the content areas and the reading needs and levels of each student (including ELLs, and struggling and advanced readers);

B) uses assessment data, student work samples, and observations from continuous monitoring of student progress to plan and evaluate effective content area reading, writing, and oral communication instruction;

C) facilitates the use of appropriate word identification and vocabulary strategies to develop each student's understanding of content;

D) teaches fluency strategies to facilitate comprehension of content;

E) uses modeling, explanation, practice, and feedback to teach students to monitor and apply comprehension strategies independently, appropriate to the content learning;

F) teaches students to analyze, evaluate, synthesize, and summarize information in single texts and across multiple texts, including electronic resources;

G) teaches students to develop written text appropriate to the content areas that utilizes organization (e.g., compare/contrast, problem/solution), focus, elaboration, word choice, and standard conventions (e.g., punctuation, grammar);

H) integrates reading, writing, and oral communication to engage students in content learning;

I) works with other teachers and support personnel to design, adjust, and modify instruction to meet students' reading, writing, and oral communication needs; and

J) stimulates discussion in the content areas for varied instructional and conversational purposes.

g) Assessment – The competent teacher understands and uses appropriate formative and summative assessments for determining student needs, monitoring student progress, measuring student growth, and evaluating student outcomes. The teacher makes decisions driven by data about curricular and instructional effectiveness and adjusts practices to meet the needs of each student.

1) Knowledge Indicators – The competent teacher:

A) understands the purposes, characteristics, and limitations of different types of assessments, including standardized assessments, universal screening, curriculum-based assessment, and progress monitoring tools;

B) understands that assessment is a means of evaluating how students learn and what they know and are able to do in order to meet the Illinois Learning Standards;

C) understands measurement theory and assessment-related issues, such as validity, reliability, bias, and appropriate and accurate scoring;

D) understands current terminology and procedures necessary for the appropriate analysis and interpretation of assessment data;

E) understands how to select, construct, and use assessment strategies and instruments for diagnosis and evaluation of learning and instruction;

F) knows research-based assessment strategies appropriate for each student;

G) understands how to make data-driven decisions using assessment results to adjust practices to meet the needs of each student;

H) knows legal provisions, rules, and guidelines regarding assessment and assessment accommodations for all student populations; and

I) knows assessment and progress monitoring techniques to assess the effectiveness of instruction for each student.

2) Performance Indicators – The competent teacher:

A) uses assessment results to determine student performance levels, identify learning targets, select appropriate research-based instructional strategies, and implement instruction to enhance learning outcomes;

B) appropriately uses a variety of formal and informal assessments to evaluate the understanding, progress, and performance of an individual student and the class as a whole;

C) involves students in self-assessment activities to help them become aware of their strengths and needs and encourages them to establish goals for learning;

D) maintains useful and accurate records of student work and performance;

E) accurately interprets and clearly communicates aggregate student performance data to students, parents or guardians, colleagues, and the community in a manner that complies with the requirements of the Illinois School Student Records Act [105 ILCS 10], 23 Ill. Adm. Code 375 (Student Records), the Family Educational Rights

and Privacy Act (FERPA) (20 USC 1232g) and its implementing regulations (34 CFR 99; December 9, 2008);

F) effectively uses appropriate technologies to conduct assessments, monitor performance, and assess student progress;

G) collaborates with families and other professionals involved in the assessment of each student;

H) uses various types of assessment procedures appropriately, including making accommodations for individual students in specific contexts; and

I) uses assessment strategies and devices that are nondiscriminatory, and take into consideration the impact of disabilities, methods of communication, cultural background, and primary language on measuring knowledge and performance of students.

h) Collaborative Relationships – The competent teacher builds and maintains collaborative relationships to foster cognitive, linguistic, physical, and social and emotional development. This teacher works as a team member with professional colleagues, students, parents or guardians, and community members.

1) Knowledge Indicators – The competent teacher:

A) understands schools as organizations within the larger community context;

B) understands the collaborative process and the skills necessary to initiate and carry out that process;

C) collaborates with others in the use of data to design and implement effective school interventions that benefit all students;

D) understands the benefits, barriers, and techniques involved in parent and family collaborations;

E) understands school- and work-based learning environments and the need for collaboration with all organizations (e.g., businesses,

community agencies, nonprofit organizations) to enhance student learning;

F) understands the importance of participating on collaborative and problem-solving teams to create effective academic and behavioral interventions for all students;

G) understands the various models of co-teaching and the procedures for implementing them across the curriculum;

H) understands concerns of families of students with disabilities and knows appropriate strategies to collaborate with students and their families in addressing these concerns; and

I) understands the roles and the importance of including students with disabilities, as appropriate, and all team members in planning individualized education programs (i.e, IEP, IFSP, Section 504 plan) for students with disabilities.

2) Performance Indicators – The competent teacher:

A) works with all school personnel (e.g., support staff, teachers, paraprofessionals) to develop learning climates for the school that encourage unity, support a sense of shared purpose, show trust in one another, and value individuals;

B) participates in collaborative decision-making and problem-solving with colleagues and other professionals to achieve success for all students;

C) initiates collaboration with others to create opportunities that enhance student learning;

D) uses digital tools and resources to promote collaborative interactions;

E) uses effective co-planning and co-teaching techniques to deliver instruction to each student;

F) collaborates with school personnel in the implementation of appropriate assessment and instruction for designated students;

G) develops professional relationships with parents and guardians that result in fair and equitable treatment of each student to support growth and learning;

H) establishes respectful and productive relationships with parents or guardians and seeks to develop cooperative partnerships to promote student learning and well-being;

I) uses conflict resolution skills to enhance the effectiveness of collaboration and teamwork;

J) participates in the design and implementation of individualized instruction for students with special needs (i.e., IEPs, IFSP, transition plans, Section 504 plans), ELLs, and students who are gifted; and

K) identifies and utilizes community resources to enhance student learning and to provide opportunities for students to explore career opportunities.

i) Professionalism, Leadership, and Advocacy – The competent teacher is an ethical and reflective practitioner who exhibits professionalism; provides leadership in the learning community; and advocates for students, parents or guardians, and the profession.

1) Knowledge Indicators – The competent teacher:

A) evaluates best practices and research-based materials against benchmarks within the disciplines;

B) knows laws and rules (e.g., mandatory reporting, sexual misconduct, corporal punishment) as a foundation for the fair and just treatment of all students and their families in the classroom and school;

C) understands emergency response procedures as required under the School Safety Drill Act [105 ILCS 128/1], including school safety and crisis intervention protocol, initial response actions (e.g., whether to stay in or evacuate a building), and first response to medical emergencies (e.g., first aid and life-saving techniques);

D) identifies paths for continuous professional growth and improvement, including the design of a professional growth plan;

E) is cognizant of his or her emerging and developed leadership skills and the applicability of those skills within a variety of learning communities;

F) understands the roles of an advocate, the process of advocacy, and its place in combating or promoting certain school district practices affecting students;

G) understands local and global societal issues and responsibilities in an evolving digital culture; and

H) understands the importance of modeling appropriate dispositions in the classroom.

2) Performance Indicators – The competent teacher:

A) models professional behavior that reflects honesty, integrity, personal responsibility, confidentiality, altruism and respect;

B) maintains accurate records, manages data effectively, and protects the confidentiality of information pertaining to each student and family;

C) reflects on professional practice and resulting outcomes; engages in self-assessment; and adjusts practices to improve student performance, school goals, and professional growth;

D) communicates with families, responds to concerns, and contributes to enhanced family participation in student education;

E) communicates relevant information and ideas effectively to students, parents or guardians, and peers, using a variety of technology and digital-age media and formats;

F) collaborates with other teachers, students, parents or guardians, specialists, administrators, and community partners to enhance students' learning and school improvement;

G) participates in professional development, professional organizations, and learning communities, and engages in peer coaching and mentoring activities to enhance personal growth and development;

H) uses leadership skills that contribute to individual and collegial growth and development, school improvement, and the advancement of knowledge in the teaching profession;

I) proactively serves all students and their families with equity and honor and advocates on their behalf, ensuring the learning and well-being of each child in the classroom;

J) is aware of and complies with the mandatory reporter provisions of Section 4 of the Abused and Neglected Child Reporting Act [325 ILCS 5/4];

K) models digital etiquette and responsible social actions in the use of digital technology; and

L) models and teaches safe, legal, and ethical use of digital information and technology, including respect for copyright, intellectual property, and the appropriate documentation of sources.

(Source: Amended at 37 Ill. Reg. 1260, effective January 17, 2013)

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Universities Retirement

2) Code Citation: 80 Ill. Adm. Code 1600

3) Section Number: 1600.140 — Adopted Action: New Section

4) Statutory Authority: 40 ILCS 5/15-177

5) Effective Date of Amendment: January 15, 2013

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notices of Proposed Published in the *Illinois Register*: August 31, 2012; 36 Ill. Reg. 13568

10) Has JCAR issued a Statement of Objection to this Rulemaking: No

11) Differences between Proposal and Final Version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any proposed rulemakings pending on this Part? No

15) Summary and Purpose of Amendment: This Section is intended to implement qualification requirements under IRC Section 401(a) as applicable to governmental plans within the meaning of IRC Section 414(d). The System is intended to be a qualified governmental plan under the meaning of those IRC provisions.

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

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENT

Michael B. Weinstein, General Counsel
State Universities Retirement System
1901 Fox Drive,
Champaign, IL 61820

217/378-8825 or 217/378-8838

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

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENT

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

PART 1600
UNIVERSITIES RETIREMENT

SUBPART A: GENERAL

Section
1600.100 Definitions
1600.110 Freedom of Information Act
1600.120 Open Meetings Act
1600.130 Procurement
1600.140 Compliance with the Internal Revenue Code

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

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

SUBPART C: CLAIMS PROCEDURE AND EVIDENTIARY REQUIREMENTS

Section
1600.300 Effective Beneficiary Designations

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENT

1600.305 Full-Time Student Survivors Insurance Beneficiaries
1600.310 Dependency of Beneficiaries
1600.320 Disability Claims Procedure

SUBPART D: BENEFIT CALCULATION AND PAYMENT

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

SUBPART E: ADMINISTRATIVE REVIEW

Section
1600.500 Rules of Practice − Nature and Requirements of Formal Hearings

SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section
1600.600 Definitions
1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order
1600.610 Invalid Orders
1600.615 Filing a QILDRO with the System
1600.620 Modified QILDROs
1600.625 Benefits Affected by a QILDRO
1600.630 Effect of a Valid QILDRO
1600.635 QILDROs Against Persons Who Became Members Prior to July 1, 1999
1600.640 Alternate Payee's Address
1600.645 Electing Form of Payment
1600.650 Automatic Annual Increases
1600.655 Expiration of a QILDRO
1600.660 Reciprocal Systems QILDRO Policy Statement
1600.665 Providing Benefit Information for Divorce Purposes

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENT

SUBPART G: BOARD TRUSTEE ELECTION

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

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

SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6095, effective May 2, 1997; amended at 21 Ill. Reg. 11962, effective August 13, 1997; amended at 21 Ill. Reg. 12653, effective August 28, 1997; amended at 22 Ill. Reg. 4116, effective February 9, 1998; amended at 23 Ill. Reg. 13667, effective November 1, 1999; amended at 25 Ill. Reg. 10206, effective July 30, 2001; amended at 28 Ill. Reg. 2292, effective January 23, 2004; expedited correction at 28 Ill. Reg. 7575, effective January 23, 2004; amended at 29 Ill. Reg. 2729, effective March 1, 2005; amended at 29 Ill. Reg. 11819, effective July 12, 2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; emergency expired September 23, 2009; amended at 33 Ill. Reg. 10757, effective July 1, 2009; amended at 33 Ill. Reg. 16755, effective November 23, 2009; amended at 34 Ill. Reg. 9523, effective June 25, 2010; amended at 35 Ill. Reg. 10952, effective June 22, 2011; amended

at 36 Ill. Reg. 3938, effective February 22, 2012; amended at 37 Ill. Reg. 1309, effective January 15, 2013.

SUBPART A: GENERAL

Section 1600.140 Compliance with the Internal Revenue Code

a) Purpose. This Section is intended to implement qualification requirements under IRC section 401(a) as applicable to governmental plans within the meaning of IRC section 414(d). The System is intended to be a qualified governmental plan under the meaning of those IRC provisions.

b) Exclusive Benefit Rule and Nonreversion of Trust Assets. Prior to the satisfaction of all liabilities to participants or their beneficiaries, no part of the corpus or income of the System shall be used for, or diverted to, purposes other than for the exclusive benefit of the System's participants or their beneficiaries. No part of the System's assets may revert to the State of Illinois or any employer except in the case of a good faith mistake of fact as permitted by Revenue Ruling 91-4, 1991-1 C.B. 57.

c) Nonforfeitability. Upon termination of the System or upon complete discontinuance of contributions to the System, the rights of each participant to benefits accrued to the date of the termination or discontinuance are nonforfeitable.

d) USERRA. The provisions of Code Section 1-118 (concerning veterans' rights) shall be effective with respect to the System beginning December 12, 1994.

e) Required Minimum Distributions. The provisions of Code Section 1-116.1 (concerning minimum required distributions) shall be effective with respect to the System beginning January 1, 1987. The System shall pay all benefits in accordance with a reasonable good faith interpretation of the requirements of IRC section 401(a)(9).

f) Federal Contribution and Benefit Limitations. Pursuant to Code Section 1-116, the System shall comply with the applicable contribution and benefit limitations imposed by IRC section 415 for limitation years beginning on or after January 1, 1976.

g) Mortality Tables and Interest Rates. The mortality tables and interest rates adopted by the Board of Trustees of the System from time to time in accordance with Code Sections 15-124 and 15-125 shall apply to the System as though those provisions were fully set forth in Article 15 of the Code. This subsection (g) applies beginning July 1, 1963.

h) Direct Transfer of Eligible Rollover Distributions. For distributions made on or after January 1, 1993, the System shall implement Code Section 1-106(b) (concerning direct rollovers) in accordance with IRC section 401(a)(31), as follows:

1) If a distributee becomes entitled to an eligible rollover distribution, the distributee may elect to have the distribution, or any portion of the distribution, paid directly to an eligible retirement plan specified by the distributee.

2) The election made pursuant to this Section shall be in accordance with the terms and conditions established by the Board.

3) Upon exercise of the election by a distributee pursuant to this subsection (h), the distribution from the System of the amount designated by the distributee shall be made in the form of a direct transfer to the specified eligible retirement plan.

4) For purpose of this subsection (h), "distributee" means a member, a surviving spouse, or a former spouse under a domestic relations order that is treated as a qualified domestic relations order to the extent provided in IRC section 414(p)(11). For plan years beginning on or after January 1, 2010, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by IRC section 401(a)(9)(E). However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity shall be treated as an "inherited" individual retirement account or annuity.

5) Eligible Rollover Distribution

A) For purposes of this subsection (h), "eligible rollover distribution" means a distribution from the retirement fund that constitutes an

eligible rollover distribution within the meaning of IRC section 401(a)(31)(D), i.e., any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made:

- for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary; or

- for a specified period of 10 years or more;

ii) any distribution to the extent the distribution is required under IRC section 401(a)(9);

iii) the portion of any distribution that is not includible in gross income; or

iv) any distribution that is reasonably expected to total less than $200 during the year.

B) Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible distribution merely because a portion consists of after-tax contributions that are not includible in gross income. However, that portion may be transferred only:

i) to an individual retirement account or annuity described in IRC section 408(a) or (b) or to a qualified defined contribution plan described in IRC section 401(a) that agrees to separately account for amounts so transferred (and earnings on those amounts), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible;

ii) on or after January 1, 2007, to a qualified defined benefit plan described in IRC section 401(a) or to an annuity contract described in IRC section 403(b) that agrees to separately account for amounts transferred (and earnings on those amounts), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not includible; or

iii) on or after January 1, 2008, to a Roth IRA described in IRC section 408A.

6) For purposes of this subsection (h), "eligible retirement plan" means a plan that constitutes an eligible retirement plan within the meaning of IRC section 401(a)(31)(E), the terms of which permit the acceptance of rollover distribution and is limited to the following:

A) an individual retirement account described in IRC section 408(a);

B) an individual retirement annuity described in IRC section 408(b);

C) an annuity plan described in IRC section 403(a);

D) a qualified trust described in IRC section 401(a);

E) effective January 1, 2002, an annuity contract described in IRC section 403(b);

F) effective January 1, 2002, an eligible deferred compensation plan described in IRC section 457(b) that is maintained by an eligible employer described in IRC section 457(e)(1)(A) that agrees to separately account for amounts transferred into that plan from the System; or

G) effective January 1, 2008, a Roth IRA described in IRC section 408A.

i) Qualified Illinois Domestic Relations Orders. If benefits are payable pursuant to a QILDRO that satisfies the requirements of "domestic relations order" as defined

in IRC section 414(p), then the applicable requirements of IRC section 414(p) shall be followed by the System.

(Source: Added at 37 Ill. Reg. 1309, effective January 15, 2013)

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Chief Procurement Officer for General Services Standard Procurement

2) Code Citation: 44 Ill. Adm. Code 1

3) Section Number: 1.2020 Emergency Action: Amendment

4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500]

5) Effective Date of Rulemaking: January 22, 2013

6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not expected to expire before the end of the 150-day period.

7) Date Filed with the Index Department: January 22, 2013

8) A copy of the emergency rulemaking, 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: Through a combination of small business forums led by the Chief Procurement Officer for General Services, hearings held by the CPO on a variety emergency purchases, and hearings held by CMS regarding racial disparity in Informational Technology Services contracting, it has been separately demonstrated that vendors recognized in the Business Enterprise Program and Small Business Program as well as the great number of vendors not maintaining registration with these programs are suffering economic injury as a result of a limited small purchase threshold in the State of Illinois. The CPO's office is authorized to increase the small purchase threshold to $50,000 for goods and services generally and $70,000 for construction procurements in administrative rule. The CPO's raising of the small purchase threshold must be done under the advice of the Procurement Policy Board which has previously concurred with raising the limits. To increase these thresholds would provide immediate relief to small and diverse businesses by significantly reducing their risk of economic injury while awaiting the completion of a state procurement. These businesses maintain very little reserve and are becoming incapable of providing goods and services pledged to the State while awaiting a contract award above the small purchase threshold. Procurements completed under the small purchase threshold rely on a truncated process that allows for faster completion of procurements that concludes more swiftly. This is of benefit to both the vendor community and the State.

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF EMERGENCY AMENDMENT

The State's actions to defer maintenance at state facilities has also led to an escalation in emergency construction services that mitigate life safety issues. Many of these emergencies are preventable in nature when the limit to construction is raised and the projects are then undertaken as small procurements. Ease of access to these construction services without declaring them as emergency procurements creates cost savings for the State and prevents life safety emergencies in the event of demise to a State facility.

10) A Complete Description of the Subjects and Issues Involved: The Chief Procurement Officer for General Services is raising the requirements for competitive bidding for supplies and services to $50,000 and above and for construction to $70,000 and above. Currently, competitive selection is required on all supplies and services totaling $35,000 and above and for construction $42,000 and above.

11) Are there any proposed amendments to this Part Pending? No

12) Statement of Statewide Policy Objectives: This rulemaking does not affect or create or expand a State mandate under the State Mandates Act.

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

Margaret L. van Dijk
Senior Policy Advisor
Chief Procurement Office for General Services
712 Stratton Office Building
Springfield, IL 62706

217-558-2228
Margaret.vanDijk@illinois.gov

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

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS
CHAPTER I: CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

PART 1
CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES
STANDARD PROCUREMENT

SUBPART A: GENERAL

Section
1.1 Title
1.3 Authority
1.5 Policy
1.8 Implementation of This Part
1.10 Application
1.15 Definition of Terms Used in This Part
1.25 Property Rights
1.30 Constitutional Officers, and Legislative and Judicial Branches (Repealed)

SUBPART B: PROCUREMENT RULES, POLICIES AND PROCEDURES

Section
1.525 Rules
1.530 Policies and Procedures

SUBPART C: PROCUREMENT AUTHORITY

Section
1.1005 Procurement Authority
1.1010 Appointment of State Purchasing Officer (Repealed)
1.1040 Central Procurement Authority of the CPO-GS
1.1050 Procurement Authority of the SPO; Limitations (Repealed)
1.1060 Delegation
1.1070 Toll Highway Authority
1.1075 Department of Natural Resources (Repealed)
1.1080 Illinois Mathematics and Science Academy (Repealed)

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

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SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section
1.1501 Illinois Procurement Bulletin
1.1510 Publication of Illinois Procurement Bulletin
1.1515 Registration
1.1525 Bulletin Content
1.1550 Official State Newspaper (Repealed)
1.1560 Alternate and Supplemental Notice
1.1570 Error in Notice
1.1580 Direct Solicitation
1.1585 Notice Time
1.1590 Retention of Bulletin Information (Repealed)
1.1595 Availability of Solicitation Document

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section
1.2005 General Provisions
1.2010 Competitive Sealed Bidding
1.2012 Multi-Step Sealed Bidding
1.2013 Reverse Auctions
1.2015 Competitive Sealed Proposals
1.2020 Small Purchase Limits
EMERGENCY
1.2025 Sole Economically Feasible Source Procurement
1.2030 Emergency Procurements
1.2035 Competitive Selection Procedures for Professional and Artistic Services
1.2036 Other Methods of Source Selection
1.2037 Tie Bids and Proposals
1.2038 Modification or Withdrawal of Bids or Proposals
1.2039 Mistakes
1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section
1.2043 Suppliers
1.2044 Vendor List

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF EMERGENCY AMENDMENT

1.2045 Vendor Prequalification
1.2046 Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section
1.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section
1.2050 Specifications and Samples

SUBPART I: CONTRACTS

Section
1.2055 Types of Contracts
1.2060 Duration of Contracts – General
1.2065 Cancellation of Contracts

SUBPART J: PROCUREMENT FILES

Section
1.2080 Public Procurement File
1.2084 Record Retention
1.2086 Filing with the Comptroller

SUBPART K: WORKING CONDITIONS

Section
1.2560 Prevailing Wage
1.2570 Equal Employment Opportunity; Affirmative Action
1.2575 Subcontractors (Repealed)

SUBPART L: CONTRACT PRICING

Section
1.2800 All Costs Included (Repealed)

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

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SUBPART M: CONSTRUCTION AND
CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section
1.3005 Construction and Construction Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section
1.4005 Real Property Leases and Capital Improvement Leases
1.4010 Authority
1.4015 Method of Source Selection
1.4020 Request for Information − Real Property and Capital Improvement Leases
1.4025 Lease Requirements
1.4030 Purchase Option
1.4035 Rent Without Occupancy
1.4040 Local Site Preferences
1.4042 Historic Area Preferences
1.4044 Emergency Lease Procurement

SUBPART O: PREFERENCES

Section
1.4505 Procurement Preferences
1.4510 Resident Vendor Preference
1.4515 Soybean Oil-Based Ink
1.4520 Recycled Materials
1.4525 Recyclable Paper
1.4526 Environmentally Preferable Procurement
1.4530 Correctional Industries
1.4535 Qualified Not-for-Profit Agencies for Persons with Severe Disabilities
1.4540 Gas Mileage and Flex-Fuel Requirements
1.4545 Small Business
1.4550 Illinois Agricultural Products
1.4555 Corn-Based Plastic Products
1.4557 Disabled Veterans
1.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities
1.4575 Domestic Products

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1.4578 Bio-Based Products
1.4579 Notice of Preferences

SUBPART P: ETHICS

Section
1.5002 Continuing Disclosure; False Certification
1.5005 Bribery
1.5010 Felons
1.5011 Debt Delinquency
1.5012 Collection and Remittance of Illinois Use Tax
1.5013 Conflicts of Interest Prohibited by the Code
1.5014 Environmental Protection Act Violations
1.5015 Negotiations for Future Employment
1.5020 Exemptions
1.5021 Bond Issuances
1.5023 Other Conflicts of Interest
1.5030 Revolving Door Prohibition
1.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
1.5036 Disclosures of Business in Iran
1.5037 Vendor Registration, Certification and Prohibition on Political Contributions
1.5038 Lobbying Restrictions
1.5039 Procurement Communication Reporting Requirement
1.5055 Supply Inventory
1.5060 Prohibited Bidders and Contractors
1.5065 Lead Poisoning Prevention Act Violations

SUBPART Q: CONCESSIONS

Section
1.5310 Concessions

SUBPART R: COOPERATIVE PURCHASING

Section
1.5400 General
1.5420 Governmental Joint Purchasing Act Contracts
1.5440 Non-Governmental Joint Purchasing
1.5460 No Agency Relationship

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF EMERGENCY AMENDMENT

1.5510 Complaints Against Vendors (Repealed)
1.5520 Suspension (Repealed)
1.5530 Resolution of Contract Controversies (Repealed)
1.5540 Violation of Law or Rule (Repealed)

SUBPART S: PROTESTS

Section
1.5550 Protests

SUBPART T: SUSPENSION AND DEBARMENT

Section
1.5560 Suspension and Debarment

SUBPART U: VIOLATION OF STATUTE OR RULE

Section
1.5620 Violation of Statute or Rule

SUBPART V: HEARING PROCEDURES

Section
1.5700 General
1.5710 Informal Process
1.5720 Hearing Officers
1.5730 Notice of Hearing
1.5740 Written Comments and Oral Testimony
1.6010 Supply Management and Dispositions (Repealed)
1.6500 General (Repealed)
1.6510 No Agency Relationship (Repealed)
1.6520 Obligations of Participating Governmental Units (Repealed)
1.6530 Centralized Contracts – Estimated Quantities (Repealed)
1.6535 Centralized Contracts – Definite Quantities (Repealed)

SUBPART W: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section
1.7000 Severability

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF EMERGENCY AMENDMENT

1.7010 Government Furnished Property
1.7015 Inspections
1.7020 Taxes, Licenses, Assessments and Royalties
1.7025 Written Determinations (Repealed)
1.7030 No Waiver of Sovereign Immunity

SUBPART X: SELECTION OF A SUCCESSOR ILLINOIS LOTTERY PRIVATE MANAGER IF A PRIVATE MANAGEMENT AGREEMENT HAS BEEN TERMINATED

Section
1.8000 Authority
1.8005 General
1.8010 Selection Process
1.8015 Lottery Advisors
1.8020 Public Hearing
1.8025 Award
1.8030 Action to Contest Selection

AUTHORITY: The Illinois Procurement Code [30 ILCS 500] and the Illinois Lottery Law [20 ILCS 1605].

SOURCE: Adopted at 7 Ill. Reg. 100, effective December 17, 1982; amended at 7 Ill. Reg. 13481, effective October 4, 1983; amended at 7 Ill. Reg. 13844, effective October 12, 1983; codified at 8 Ill. Reg. 14941; Sections 1.2210, 1.2220, 1.2230, 1.2240 recodified to Section 1.2210 at 9 Ill. Reg. 6118; amended at 10 Ill. Reg. 923, effective January 2, 1986; amended at 10 Ill. Reg. 18707, effective October 22, 1986; amended at 11 Ill. Reg. 7225, effective April 6, 1987; amended at 11 Ill. Reg. 7595, effective April 14, 1987; amended at 13 Ill. Reg. 17804, effective November 7, 1989; emergency amendment at 16 Ill. Reg. 13118, effective August 7, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 600, effective January 5, 1993; amended at 17 Ill. Reg. 14576, effective August 27, 1993; amended at 20 Ill. Reg. 9015, effective July 1, 1996; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12632, effective July 1, 1998, for a maximum of 150 days, and new Part adopted by emergency rulemaking at 22 Ill. Reg. 12726, effective July 1, 1998, for a maximum of 150 days; old Part repealed and new Part adopted at 22 Ill. Reg. 20875, effective November 25, 1998; emergency amendment at 23 Ill. Reg. 2812, effective February 16, 1999, for a maximum of 150 days; emergency expired on July 15, 1999; emergency amendment at 23 Ill. Reg. 5869, effective April 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7075, effective June 7, 1999; amended at 24 Ill. Reg. 1900, effective January 21, 2000; amended at 26 Ill. Reg. 13189,

effective August 23, 2002; emergency amendment at 29 Ill. Reg. 20540, effective December 2, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 5673, effective March 7, 2006, for the balance of the 150 days; emergency expired August 3, 2006; amended at 30 Ill. Reg. 138, effective December 22, 2005; amended at 30 Ill. Reg. 13378, effective July 25, 2006; amended at 30 Ill. Reg. 17305, effective October 20, 2006; amended at 30 Ill. Reg. 18635, effective November 17, 2006; emergency amendment at 33 Ill. Reg. 3205, effective January 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 9607, effective June 25, 2009; recodified, pursuant to PA 96-795, from Department of Central Management Services to Chief Procurement Officer for General Services at 35 Ill. Reg. 10143; amended at 36 Ill. Reg. 10729, effective August 6, 2012; amended at 36 Ill. Reg. 16319, effective November 1, 2012; emergency amendment at 37 Ill. Reg. 1319, effective January 22, 2013, for a maximum of 150 days.

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 1.2020 Small Purchase Limits
EMERGENCY

a) Application

1) Individual procurements of $50,000~~$35,000~~ or less for supplies or services, other than professional and artistic, may be made without notice or competition. These small purchase maximums shall be subject to the annual cost of living increases set forth in subsection (a)(3).

2) Procurements for construction and construction related services of $70,000~~$40,700~~ or less, or as increased to reflect increases in the consumer price index as determined by the CPO-GS.

3) The CPO-GS shall announce any change identified by the United States Department of Labor in the Consumer Price Index for All Urban Consumers for the period ending each December 31. That percentage change shall be used to recalculate the small purchase maximums applicable for the fiscal year beginning the following July 1.

4) Procurements of less than $20,000 for professional and artistic services and that have a non-renewable term of one year or less may be made without notice of competition.

b) Determination of Small Purchase Status

1) In determining whether a contract is under the small purchase limit, the stated value of the supplies or services plus any optional supplies and services, determined in good faith, shall be utilized. When the value is calculated month-to-month or in a similar fashion, the amount shall be calculated for a 12 month period.

2) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not to exceed limit applicable to the type of procurement (see subsection (a)).

3) If, after signing the contract, the actual cost of completing the contract is determined to exceed the small purchase amount, and the SPO determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the SPO must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.

c) The CPO-GS may establish policies and procedures to manage the use of the small purchase method of source selection. The SPO may establish additional policies and procedures applicable to State agencies under the SPO's jurisdiction.

d) If there is a repetitive need for small procurements of the same type, the State agency shall notify the SPO who shall consider whether issuing a competitive sealed bid or proposal for procurement of those needs is in the best interests of the State.

(Source: Amended by emergency rulemaking at 37 Ill. Reg. 1319, effective January 22, 2013, for a maximum of 150 days)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3) Section Number: 140.491 — Emergency Action: Amendment

4) Statutory Authority: Section 12-3 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendment: January 15, 2013

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 rule expires, as authorized by the SMART Act, on June 30, 2013.

7) Date Filed with the Index Department: January 15, 2013

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: After months of long and intensive negotiations and pending the second notice hearing and adoption of the agreed upon proposed rules, pursuant to the direction of the Joint Committee on Administrative Rules (JCAR) and agreement with stakeholders, HFS is filing this emergency rule in order to revert to the status prior to the implementation of the SMART emergency rule that was suspended by JCAR in August 2012.

10) Complete Description of the Subjects and Issues Involved: This emergency rule reverts the process utilized by the Department of Healthcare and Family Services for approving non-emergency transportation of clients in the Medical Assistance Program to the process which existed prior to the implementation of the SMART emergency rule. This action was directed by JCAR and agreed to by the stakeholders pending second notice hearing and adoption of proposed rules negotiated with and agreed upon by stakeholders.

11) Are there any proposed amendments to this Part pending: Yes

SectionNumbers:	Proposed Action:	Illinois Register Citation:
140.445	Amendment	36 Ill. Reg. 7757; May 25, 2012
140.523	Amendment	36 Ill. Reg. 7757; May 25, 2012
140.539	Amendment	36 Ill. Reg. 7757; May 25, 2012

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.570	Amendment	36 Ill. Reg. 7757; May 25, 2012
140.400	Amendment	36 Ill. Reg. 8594; June 15, 2012
140.438	Amendment	36 Ill. Reg. 8594; June 15, 2012
140.5	Amendment	36 Ill. Reg. 9650; July 6, 2012
140.642	Amendment	36 Ill. Reg. 9650; July 6, 2012
140.643	Amendment	36 Ill. Reg. 9650; July 6, 2012
140.491	Amendment	36 Ill. Reg. 15425; November 2, 2012
140.Table A	New Section	36 Ill. Reg. 15425; November 2, 2012
140.491	Amendment	36 Ill. Reg. 18105; December 28, 2012
140.462	Amendment	37 Ill. Reg. 18; January 4, 2013

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 rulemaking shall be directed to:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Ave E., 3rd Floor
Springfield IL 62763-0002
HFS.Rules@illinois.gov.

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section
140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 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 or Revocation on Persons Associated with Vendor

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20 Submittal of Claims
140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22 Magnetic Tape Billings (Repealed)
140.23 Payment of Claims
140.24 Payment Procedures
140.25 Overpayment or Underpayment of Claims
140.26 Payment to Factors Prohibited
140.27 Assignment of Vendor Payments
140.28 Record Requirements for Medical Providers
140.30 Audits
140.31 Emergency Services Audits
140.32 Prohibition on Participation, and Special Permission for Participation
140.33 Publication of List of Sanctioned Entities
140.35 False Reporting and Other Fraudulent Activities
140.40 Prior Approval for Medical Services or Items
140.41 Prior Approval in Cases of Emergency
140.42 Limitation on Prior Approval
140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.44 Withholding of Payments Due to Fraud or Misrepresentation
140.45 Withholdoing of Payments Upon Provider Ausdit, Quality of Care Review, Credibile Allegation of Fraud or Failure to Copperate
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)
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)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section
140.400 Payment to Practitioners
140.402 Copayments for Noninstitutional Medical Services
140.403 Telehealth Services
140.405 Non-Institution Rate Reductions
140.410 Physicians' Services
140.411 Covered Services By Physicians
140.412 Services Not Covered By Physicians
140.413 Limitation on Physician Services
140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
140.416 Optometric Services and Materials
140.417 Limitations on Optometric Services
140.418 Department of Corrections Laboratory
140.420 Dental Services
140.421 Limitations on Dental Services
140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
140.425 Podiatry Services
140.426 Limitations on Podiatry Services
140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
140.428 Chiropractic Services
140.429 Limitations on Chiropractic Services (Repealed)
140.430 Independent Clinical Laboratory Services
140.431 Services Not Covered by Independent Clinical Laboratories
140.432 Limitations on Independent Clinical Laboratory Services
140.433 Payment for Clinical Laboratory Services
140.434 Record Requirements for Independent Clinical Laboratories
140.435 Advanced Practice Nurse Services
140.436 Limitations on Advanced Practice Nurse Services
140.438 Diagnostic Imaging Services

140.440 Pharmacy Services
140.441 Pharmacy Services Not Covered
140.442 Prior Approval of Prescriptions
140.443 Filling of Prescriptions
140.444 Compounded Prescriptions
140.445 Legend Prescription Items (Not Compounded)
140.446 Over-the-Counter Items
140.447 Reimbursement
140.448 Returned Pharmacy Items
140.449 Payment of Pharmacy Items
140.450 Record Requirements for Pharmacies
140.451 Prospective Drug Review and Patient Counseling
140.452 Mental Health Services
140.453 Definitions
140.454 Types of Mental Health Services
140.455 Payment for Mental Health Services
140.456 Hearings
140.457 Therapy Services
140.458 Prior Approval for Therapy Services
140.459 Payment for Therapy Services
140.460 Clinic Services
140.461 Clinic Participation, Data and Certification Requirements
140.462 Covered Services in Clinics
140.463 Clinic Service Payment
140.464 Hospital-Based and Encounter Rate Clinic Payments
140.465 Speech and Hearing Clinics (Repealed)
140.466 Rural Health Clinics (Repealed)
140.467 Independent Clinics
140.469 Hospice
140.470 Eligible Home Health Providers
140.471 Description of Home Health Services
140.472 Types of Home Health Services
140.473 Prior Approval for Home Health Services
140.474 Payment for Home Health Services
140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic

Devices
140.479 Limitations, Medical Supplies
140.480 Equipment Rental Limitations
140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
140.482 Family Planning Services
140.483 Limitations on Family Planning Services
140.484 Payment for Family Planning Services
140.485 Healthy Kids Program
140.486 Illinois Healthy Women
140.487 Healthy Kids Program Timeliness Standards
140.488 Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
140.490 Medical Transportation
140.491 Limitations on Medical Transportation
EMERGENCY
140.492 Payment for Medical Transportation
140.493 Payment for Helicopter Transportation
140.494 Record Requirements for Medical Transportation Services
140.495 Psychological Services
140.496 Payment for Psychological Services
140.497 Hearing Aids
140.498 Fingerprint-Based Criminal Background Checks

SUBPART E: GROUP CARE

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

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thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; 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;

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suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective

September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective

November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days;

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

Section 140.491 Limitations on Medical Transportation
EMERGENCY

a) For payment to be made, the transportation service must be to the nearest available appropriate provider, by the least expensive mode that is adequate to meet the individual's need. When public transportation is available and is a

practical form of transportation, payment will not be made for a more expensive mode of transportation. ~~This subsection applies to all transportation, including exceptions set forth in subsetion (b) of this Section.~~

b) Approval from the Department, or its authorized agent, is required prior to providing transportation to and from the source of medical care, except:

1) For transportation provided by an ambulance in emergency situations.

2) For transportation provided by an ambulance for an individual who is transported from one hospital to a second hospital for services not available at the sending hospital.

3~~2~~) For transportation provided by a helicopter when it is demonstrated to be medically necessary as indicated by the written order of the responsible physician in an emergency situation. An emergency may include, but is not limited to:

A) life threatening medical conditions;

B) severe burns requiring treatment in a burn center;

C) multiple trauma;

D) cardiogenic shock; and

E) high-risk neonates.

~~c) Requirements for non-emergency ambulance services, criteria for the approval of non-emergency ambulance services, physician certification and orders.~~

~~1) Whenever a patient covered by a medical assistance program under this Part or by another medical program administered by the Department is being discharged from a facility, a physician discharge order, as described in this Section shall be required for each patient whose discharge requires medically supervised ground ambulance services. Facilities shall develop procedures for a physician with medical staff privileges to provide a written and signed physician discharge order.~~

~~2) The physician discharge order shall specify the level of ground ambulance services needed and complete a medical certification establishing the criteria for approval of non-emergency ambulance transportation, as published by the Department of Healthcare and Family Services that is met by the patient. This order and the medical certification shall be completed prior to ordering a non-emergency ambulance transportation service and prior to patient discharge.~~

~~3) In the event a physician is unable to complete the medical certification, he may designate another medical licensed healthcare provider, authorized to prescribe on behalf of the physician, to complete the medical certification. The physician remains responsible for the accuracy of the medical certification and appropriate determination that the transport meets the requirements for the Department's criteria for non-emergency ambulance transports. However, the physician remains responsible for the accuracy of the medical certification and appropriate determination that the transport meets the requirements for the Department's criteria for non-emergency ambulance transports.~~

~~4) To be eligible for non-emergent ambulance transportation, the service must meet the Department's criteria, as set forth in Table A.~~

c~~d~~) An on-going prior approval, with duration of up to six months, may be obtained when subsequent trips to the same medical source are required. When prior approval is sought for subsequent trips to the same medical service, the client's physician or other medical provider must supply the Department, or its authorized agent, with a brief written statement describing the nature of the medical need, the necessity for on-going visits, already established appointment dates and the number and expected duration of the required on-going visits.

d~~e~~) The Department shall refuse to accept requests for non-emergency transportation authorizations, ~~from specific vendors who pose a risk of fraud, waste, abuse or harm, as defined in Section 140.13,~~ including prior approval and post-approval requests, and shall terminate prior approvals for future dates, for a specific non-emergency transportation vendor, if:

1) the Department has initiated a notice of termination~~, suspension or exclusion~~ of the vendor from participation in the Medical Assistance Program; or

2) the Department has issued a notification of its withholding of payments due to reliable evidence of fraud or willful misrepresentation pending investigation; or

3) the Department has issued notification of its withholding of payments based upon any of the following individuals having been indicted or otherwise charged under a law of the United States or Illinois or any other state with a felony offense that is based upon alleged fraud or willful misrepresentation on the part of the individual related to:

A) the Medical Assistance Program;

B) a Medical Assistance Program provided in another state that is of the kind provided in Illinois;

C) the Medicare program under Title XVIII of the Social Security Act; or

D) the provision of health care services:

i) if the vendor is a corporation, an officer of the corporation or an individual who owns, either directly or indirectly, five percent or more of the shares of stock or other evidence of ownership of the corporation; or

ii) if the vendor is a sole proprietorship, the owner of the sole proprietorship; or

iii) if the vendor is a partnership, a partner of the partnership; or

iv) if the vendor is any other business entity authorized by law to transact business in the state, an officer of the entity or an individual who owns, either directly or indirectly, five percent or more of the evidences of ownership of the entity.

e~~f~~) If it is not possible to obtain prior-approval for non-emergency transportation, post-approval must be requested from the Department or its authorized agent.

fg) Post-approval may be requested for items or services provided during Department non-working hours or non-working hours of its agents, whichever is applicable, or when a life threatening condition exists and there is not time to call for approval.

gh) To be eligible for post-approval consideration, the requirements for prior-approval must be met and post-approval requests must be received by the Department or its agents, whichever is applicable, no later than 20 work days after the date services are provided. A request for payment submitted to a third party payor will not affect the submission time frames for any post-approval request. Exceptions to the aforementioned post-approval request time frames will be permitted only in the following circumstances:

1) The Department or the Department of Human Services has received the patient's Medical Assistance Application, but approval of the application has not been issued as of the date of service. In such a case, the post-approval request must be received no later than 90 days after the date of the Department's Notice of Decision approving the patient's application.

2) The patient did not inform the provider of his or her eligibility for Medical Assistance. In such a case, the post-approval request must be received no later than six months after the date of service, but will be considered for payment only if there is attached to the request a copy of the provider's dated private pay bill or collection response, which was addressed and mailed to the patient each month after the date of service.

(Source: Amended by emergency rulemaking at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
FEBRUARY AGENDA

SCHEDULED MEETING:

STRATTON OFFICE BUILDING
ROOM A-1
SPRINGFIELD, ILLINOIS
FEBRUARY 6, 2013
8:00 A.M.

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Illinois Register* submittal deadlines, the agenda below may be incomplete. Other items not contained in this published agenda may be considered by the Committee at the meeting, and items from the list may be postponed to future meetings.

RULEMAKINGS CURRENTLY BEFORE JCAR

NOTICE: It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706
Email: jcar@ilga.gov
Phone: 217/785-2254

PROPOSED RULEMAKINGS

Central Management Services

1. Organ Donor Leave (80 Ill. Adm. Code 332)
   -First Notice Published: 36 Ill. Reg. 16800 – 12/7/12
   -Expiration of Second Notice: 3/9/13

Financial and Professional Regulation

2. Appraisal Management Company Registration Act (68 Ill. Adm. Code 1452)
   -First Notice Published: 36 Ill. Reg. 14466 – 9/28/12

JOINT COMMITTEE ON ADMINISTRATIVE RULES
FEBRUARY AGENDA

-Expiration of Second Notice: 2/17/13

3. Real Estate Appraiser Licensing (68 Ill. Adm. Code 1455)
-First Notice Published: 36 Ill. Reg. 15525 – 11/9/12
-Expiration of Second Notice: 2/28/13

Healthcare and Family Services

4. Medical Payment (89 Ill. Adm. Code 140)
-First Notice Published: 36 Ill. Reg. 15425 – 11/2/12
-Expiration of Second Notice: 2/20/13

Health Facilities and Services Review Board

5. Health Facilities Planning Procedural Rules (77 Ill. Adm. Code 1130)
-First Notice Published: 36 Ill. Reg. 6210 – 4/27/12
-Expiration of Second Notice: 2/8/13

Housing Development Authority

6. State Housing Appeals Board (47 Ill. Adm. Code 395)
-First Notice Published: 36 Ill. Reg. 14050 – 9/14/12
-Expiration of Second Notice: 3/18/13

Human Services

7. Maternal and Child Health Advisory Board (77 Ill. Adm. Code 2260)
-First Notice Published: 36 Ill. Reg. 15319 – 10/26/12
-Expiration of Second Notice: 3/8/13

8. Lekoteks (Repealer) (89 Ill. Adm. Code 899)
-First Notice Published: 36 Ill. Reg. 11888 – 7/27/12
-Expiration of Second Notice: 3/13/13

Insurance

9. Preferred Provider Programs (50 Ill. Adm. Code 2051)
-First Notice Published: 36 Ill. Reg. 6356 – 4/27/12
-Expiration of Second Notice: 3/11/13

JOINT COMMITTEE ON ADMINISTRATIVE RULES
FEBRUARY AGENDA

Natural Resources

10. General Hunting and Trapping on Department-Owned or -Managed Sites (17 Ill. Adm. Code 510)
    -First Notice Published: 36 Ill. Reg. 13507 – 8/31/12
    -Expiration of Second Notice: 3/10/13

Public Health

11. Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)
    -First Notice Published: 36 Ill. Reg. 12209 – 8/3/12
    -Expiration of Second Notice: 2/27/13

12. Sheltered Care Facilities Code (77 Ill. Adm. Code 330)
    -First Notice Published: 36 Ill. Reg. 12225 – 8/3/12
    -Expiration of Second Notice: 2/27/13

13. Illinois Veterans' Homes Code (77 Ill. Adm. Code 340)
    -First Notice Published: 36 Ill. Reg. 12238 – 8/3/12
    -Expiration of Second Notice: 2/27/13

14. Structural Pest Control Code (77 Ill. Adm. Code 830)
    -First Notice Published: 36 Ill. Reg. 14198 – 9/21/12
    -Expiration of Second Notice: 2/27/13

Secretary of State

15. Department of Personnel (80 Ill. Adm. Code 420)
    -First Notice Published: 36 Ill. Reg. 16743 – 11/30/12
    -Expiration of Second Notice: 3/7/13

16. Illinois Safety Responsibility Law (92 Ill. Adm. Code 1070)
    -First Notice Published: 36 Ill. Reg. 15458 – 11/2/12
    -Expiration of Second Notice: 2/10/13

State Board of Investment

17. Rules and Regulations of the Board (74 Ill. Adm. Code 800)
    -First Notice Published: 36 Ill. Reg. 15328 – 10/26/12
    -Expiration of Second Notice: 2/24/13

JOINT COMMITTEE ON ADMINISTRATIVE RULES
FEBRUARY AGENDA

State Universities Retirement System

18. Universities Retirement (80 Ill. Adm. Code 1600)
-First Notice Published: 36 Ill. Reg. 15335 – 10/26/12
-Expiration of Second Notice: 2/28/13

Teachers' Retirement System

19. The Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)
-First Notice Published: 36 Ill. Reg. 16180 – 11/16/12
-Expiration of Second Notice: 2/17/13

EMERGENCY RULEMAKINGS

Employment Security

20. Wages (56 Ill. Adm. Code 2730) (Emergency)
-Notice Published: 36 Ill. Reg. 18928 – 12/28/12

21. Employment (56 Ill. Adm. Code 2732) (Emergency)
-Notice Published: 36 Ill. Reg. 18936 – 12/28/12

22. Notices, Records, Reports (56 Ill. Adm. Code 2760) (Emergency)
-Notice Published: 36 Ill. Reg. 18947 – 12/28/12

23. Payment of Unemployment Contributions, Interest and Penalties (56 Ill. Adm. Code 2765) (Emergency)
-Notice Published: 36 Ill. Reg. 18968 – 12/28/12

Healthcare and Family Services

24. Medical Payment (89 Ill. Adm. Code 140) (Emergency)
-Notice Published: 37 Ill. Reg. 253 – 1/4/13

25. Medical Payment (89 Ill. Adm. Code 140) (Emergency)
-Notice Published: 37 Ill. Reg. 846 – 1/25/13

26. Hospital Reimbursement Changes (89 Ill. Adm. Code 152) (Emergency)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
FEBRUARY AGENDA

-Notice Published: 37 Ill. Reg. 282 – 1/4/13

PEREMPTORY RULEMAKING

Agriculture

27. Meat and Poultry Inspection Act (8 Ill. Adm. Code 125) (Peremptory)
-Notice Published: 37 Ill. Reg. 875 – 1/25/13

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 15, 2013 through January 22, 2013 and have been scheduled for review by the Committee at its February 5, 2013 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
2/28/13	Department of Financial and Professional Regulation-DPR, Real Estate Appraiser Licensing (68 Ill. Adm. Code 1455)	11/9/12 36 Ill. Reg. 15525	2/5/13
2/28/13	State Universities Retirement System, Universities Retirement (80 Ill. Adm. Code 1600)	10/26/12 36 Ill. Reg. 15335	2/5/13

EXECUTIVE ORDER

2013-1
EXECUTIVE ORDER TO REORGANIZE AGENCIES BY THE TRANSFER OF THE SENIOR HEALTH INSURANCE PROGRAM OF THE DEPARTMENT OF INSURANCE TO THE DEPARTMENT ON AGING

WHEREAS, Article V, Section 11 of the Illinois Constitution authorizes the Governor to reassign functions or reorganize executive agencies that are directly responsible to him by means of executive order; and

WHEREAS, Section 3.2 of the Executive Reorganization Implementation Act, 15 ILCS 15/3.2 (the "Act"), provides that "Reorganization" includes, in pertinent part (a) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency, and (b) the consolidation or coordination of the whole or any part of any other agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof; and

WHEREAS, the Department of Insurance and the Department on Aging are executive agencies directly responsible to the Governor which exercise the rights, powers, duties and responsibilities derived from 20 ILCS 1405 *et seq.* and 20 ILCS 105 *et seq.*, respectively; and

WHEREAS, the Senior Health Insurance Program at the Department of Insurance offers important counseling services for older adults and their caregivers regarding how to best take advantage of public benefits to meet long-term care needs; and

WHEREAS, the Department of Insurance administers such counseling services pursuant to its authority under Section 1405-15 of the Civil Administrative Code (the "Department of Insurance Law"), 20 ILCS 1405; and

WHEREAS, the Department of Insurance and the Department on Aging have successfully partnered in the past to maximize outreach opportunities for older adults by using the Aging Network in Illinois; and

WHEREAS, streamlining and consolidating the functions related to the Senior Health Insurance Program offers the opportunity to eliminate redundancy, simplify the organizational structure of the Executive Branch, improve accessibility and accountability, provide more efficient use of specialized expertise, realize savings in administrative costs, promote more effective sharing of best practices and realize other cost savings, among other things; and

WHEREAS, the aforementioned benefits of consolidation can be achieved by transferring the Senior Health Insurance Program, its functions, and staff from the Department of Insurance to the Department on Aging; and

THEREFORE, pursuant to the powers vested in me by Article V, Section 11 of the Illinois Constitution, I hereby order:

I. Transfer

a) Effective April 1, 2013, or as soon thereafter as practicable, the powers, duties, rights and responsibilities related to the functions of the Senior Health Insurance Program, as established in Section 1405-15 of the Department of Insurance Law, as well as the staff performing those functions, shall be transferred from the Department of Insurance to the Department on Aging.

b) Whenever any provision of any previous Executive Order, any Act, or any section of any Act transferred by this Executive Order provides for membership of the Director of the Department of Insurance, or his or her respective designee, on any board, commission, council, or other entity relating to the functions of the Senior Health Insurance Program, the Director of the Department on Aging, or his or her respective designee, shall serve in that place. If more than one such person is required by law to serve on any board, commission, council, or, other entity, then an equivalent number of representatives of the Department on Aging shall so serve, if necessary.

II. Effect of Transfer

a) The powers, duties, rights and responsibilities vested in or associated with the functions of the Senior Health Insurance Program shall not be affected by this Executive Order, except that all management and staff support or other resources necessary to the operations of this Program shall be provided by the Department on Aging.

b) Personnel under the Department of Insurance affected by this Executive Order shall continue their service within the Department on Aging. The status and rights of the employees, the State of Illinois and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement or annuity plan shall not be affected by this Executive Order.

c) All books, contracts, correspondence, documents, papers, personnel files, property (real and personal), records, other associated items, and pending business in any way pertaining to the powers, duties, rights and responsibilities related to the functions of the Senior Health Insurance Program shall be transferred from the

Department of Insurance and delivered to the Department on Aging for continuation, modification, or termination, as appropriate, including, but not limited to material in electronic or magnetic format and necessary computer hardware and software, shall be delivered to the Department on Aging; provided, however, that the delivery of such information shall not violate any applicable confidentiality constraints.

d) All unexpended appropriations and the balances of any funds, grants, donations, or other moneys available for use by the Department of Insurance in connection with the functions of the Senior Health Insurance Program shall be transferred to the Department on Aging for continued use in supporting this Program as directed by the Governor. Unexpended balances so transferred shall be expended only for the purpose for which the appropriation was originally made.

III. Savings Clause

a) The powers, duties, rights and responsibilities related to the functions of the Senior Health Insurance Program and transferred from the Department of Insurance by this Executive Order shall be vested in and shall be exercised by the Department on Aging. Each act done in exercise of such powers, duties, rights and responsibilities shall have the same legal effect as if done by the Department of Insurance or one of its divisions, officers or employees.

b) Every person or entity shall be subject to the same obligations and duties and any penalties, civil or criminal, arising therefrom, and shall have the same rights arising from the exercise of such powers, duties, rights and responsibilities as had been exercised by the Department of Insurance or one of its divisions, officers or employees.

c) Every officer of the Department on Aging shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing law for the same offense by any officer of the Department of Insurance whose powers or duties were transferred under this Executive Order.

d) Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon the Department of Insurance in connection with any of the functions of the Senior Health Insurance Program transferred by this Executive Order, the same shall be made, given, furnished or served in the same manner to or upon the Department on Aging.

e) This Executive Order shall not affect any act done, ratified or canceled or any right occurring or established or any action or proceeding had or commenced in an administrative, civil or criminal cause regarding the functions of the Senior Health Insurance Program before this Executive Order takes effect; such actions or proceedings may be prosecuted and continued by the Department on Aging.

f) This Executive Order shall not affect the legality of any rules relating to the functions of the Senior Health Insurance Program which were duly adopted by the Department of Insurance and in full force on the effective date of this Executive Order. Any proposed rules filed with the Secretary of State by the Department of Insurance pertaining to the transferred functions that are pending in the rulemaking process on the effective date of this Executive Order shall be deemed to have been filed by the Department on Aging. As soon as practicable hereafter, the affected agencies shall revise and clarify the transferred rules under this Executive Order to reflect the reorganization of rights, powers and duties affected by this Order. If necessary, the affected agencies may also propose, adopt, or repeal rules, rule amendments, and rule recodifications using the procedures available under the Illinois Administrative Act as appropriate to effectuate this Executive Order, except that existing title, part, and section numbering for the affected rules may be retained.

g) To the extent necessary or prudent to fully implement the intent of this Executive Order, the Department of Insurance and the Department on Aging may enter into one or more interagency agreements to ensure the full and appropriate transfer of all functions of the Senior Health Insurance Program.

IV. Severability

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

V. Effective Date

This Executive Order shall be in full force and effect upon its filing with the Secretary of State.

Issued by the Governor: January 16, 2013
Filed with the Secretary of State: January 16, 2013

ILLINOIS ADMINISTRATIVE CODE
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