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October 16, 2009 Volume 33, Issue 42

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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 preemptory 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 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 22, 2008	January 2, 2009
2	December 29, 2008	January 9, 2009
3	January 5, 2009	January 16, 2009
4	January 12, 2009	January 23, 2009
5	January 20, 2009	January 30, 2009
6	January 26, 2009	February 6, 2009
7	February 2, 2009	February 13, 2009
8	February 9, 2009	February 20, 2009
9	February 17, 2009	February 27, 2009
10	February 23, 2009	March 6, 2009
11	March 2, 2009	March 13, 2009
12	March 9, 2009	March 20, 2009
13	March 16, 2009	March 27, 2009
14	March 23, 2009	April 3, 2009
15	March 30, 2009	April 10, 2009
16	April 6, 2009	April 17, 2009
17	April 13, 2009	April 24, 2009
18	April 20, 2009	May 1, 2009
19	April 27, 2009	May 8, 2009
20	May 4, 2009	May 15, 2009
21	May 11, 2009	May 22, 2009
22	May 18, 2009	May 29, 2009
23	May 26, 2009	June 5, 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
24	June 1, 2009	June 12, 2009
25	June 8, 2009	June 19, 2009
26	June 15, 2009	June 26, 2009
27	June 22, 2009	July 6, 2009
28	June 29, 2009	July 10, 2009
29	July 6, 2009	July 17, 2009
30	July 13, 2009	July 24, 2009
31	July 20, 2009	July 31, 2009
32	July 27, 2009	August 7, 2009
33	August 3, 2009	August 14, 2009
34	August 10, 2009	August 21, 2009
35	August 17, 2009	August 28, 2009
36	August 24, 2009	September 4, 2009
37	August 31, 2009	September 11, 2009
38	September 8, 2009	September 18, 2009
39	September 14, 2009	September 25, 2009
40	September 21, 2009	October 2, 2009
41	September 28, 2009	October 9, 2009
42	October 5, 2009	October 16, 2009
43	October 13, 2009	October 23, 2009
44	October 19, 2009	October 30, 2009
45	October 26, 2009	November 6, 2009
46	November 2, 2009	November 13, 2009
47	November 9, 2009	November 20, 2009
48	November 16, 2009	November 30, 2009
49	November 23, 2009	December 4, 2009
50	November 30, 2009	December 11, 2009
51	December 7, 2009	December 18, 2009
52	December 14, 2009	December 28, 2009

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 13, 2009 to January 4th, 2010 by 4:30 pm, as January 1st is a holiday and the office will be closed.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Reports of Child Abuse and Neglect
- 2) Code Citation: 89 Ill. Adm. Code 300
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
300.20	Amended
300.180	Amended
- 4) Statutory Authority: 325 ILCS 2
- 5) A Complete Description of the Subjects and Issues Involved: These proposed amendments implement Public Act 96-345.
- 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 Objective: The rulemaking does not expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65-D
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
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Facsimile: 217/557-0692

- 13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments do not have an economic impact on small business.
- 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: The rulemaking was not included in the 2 most recent regulatory agendas because: it was not anticipated.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 300

REPORTS OF CHILD ABUSE AND NEGLECT

Section

300.10	Purpose
300.20	Definitions
300.30	Reporting Child Abuse or Neglect to the Department
300.40	Content of Child Abuse or Neglect Reports
300.50	Transmittal of Child Abuse or Neglect Reports
300.60	Special Types of Reports (Recodified)
300.70	Referrals to the Local Law Enforcement Agency and State's Attorney
300.80	Delegation of the Investigation
300.90	Time Frames for the Investigation
300.100	Initial Investigation
300.110	The Formal Investigative Process
300.120	Taking Children into Temporary Protective Custody
300.130	Notices Whether Child Abuse or Neglect Occurred
300.140	Transmittal of Information to the Illinois Department of Professional Regulation and to School Superintendents
300.150	Referral for Other Services
300.160	Special Types of Reports
300.170	Child Death Review Teams
300.180	Abandoned Newborn Infants
300.APPENDIX A	Acknowledgement of Mandated Reporter Status
300.APPENDIX B	Child Abuse and Neglect Allegations

AUTHORITY: Implementing and authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5], the Abandoned Newborn Infants Protection Act [325 ILCS 2] and Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3].

SOURCE: Adopted and codified as 89 Ill. Adm. Code 302 at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; preemptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective

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November 1, 1985; amended at 10 Ill. Reg. 5915, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1151, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified from 89 Ill. Adm. Code 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, and Appendix A at 11 Ill. Reg. 3492; emergency amendment at 11 Ill. Reg. 4058, effective February 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12619, effective July 20, 1987; recodified at 11 Ill. Reg. 13405; amended at 13 Ill. Reg. 2419, effective March 1, 1989; emergency amendment at 14 Ill. Reg. 11356, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 17558, effective October 15, 1990; amended at 14 Ill. Reg. 19827, effective November 28, 1990; emergency amendment at 15 Ill. Reg. 14285, effective September 25, 1991; amended at 15 Ill. Reg. 17986, effective December 1, 1991; emergency amendment at 17 Ill. Reg. 15658, effective September 10, 1993, for a maximum of 150 days; emergency expired February 7, 1994; amended at 18 Ill. Reg. 8377, effective May 31, 1994; amended at 18 Ill. Reg. 8601, effective June 1, 1994; amended at 19 Ill. Reg. 3469, effective March 15, 1995; amended at 19 Ill. Reg. 10522, effective July 1, 1995; amended at 20 Ill. Reg. 10328, effective July 19, 1996; amended at 22 Ill. Reg. 18847, effective October 1, 1998; amended at 23 Ill. Reg. 13590, effective November 15, 1999; amended at 24 Ill. Reg. 7707, effective June 1, 2000; amended at 25 Ill. Reg. 12781, effective October 1, 2001; amended at 26 Ill. Reg. 7435, effective May 15, 2002; amended at 26 Ill. Reg. 11730, effective August 1, 2002; amended at 27 Ill. Reg. 1114, effective January 15, 2003; amended at 27 Ill. Reg. 9431, effective June 9, 2003; preemptory amendment at 29 Ill. Reg. 21065, effective December 8, 2005; amended at 33 Ill. Reg. 7862, effective June 15, 2009; amended at 34 Ill. Reg. _____, effective _____.

Section 300.20 Definitions

"Abandonment" means parental conduct that demonstrates the purpose of relinquishing all parental rights and claims to the child. Abandonment is also defined as any parental conduct that evinces a settled purpose to forego all parental duties and relinquish all parental claims to the child.

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

inflicts, causes to be inflicted, or allows to be inflicted upon such child physical or mental injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

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creates a substantial risk of physical or mental injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss of or impairment of any bodily function;

commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended, and extending those definitions of sex offenses to include children under 18 years of age;

commits or allows to be committed an act or acts of torture upon such child;

inflicts excessive corporal punishment; or

commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 1961, against the child. [325 ILCS 5/3]

"Act" means the Abused and Neglected Child Reporting Act [325 ILCS 5].

"CANTS/SACWIS 8" or "C/S8" means the Department's document titled Notification of a Report of Suspected Child Abuse and/or Neglect. This document explains the Department's child abuse/neglect allegation investigation process.

"CANTS/SACWIS 9" or "C/S9" means the Department's document titled Notification of Intent to Indicate Child Care Worker for Report of Child Abuse and/or Neglect. This document is used to notify a person that the Department plans to indicate that person as a perpetrator of child abuse/neglect.

"CANTS/SACWIS 10" or "C/S10" means the Department's document titled Notice of Intent to Indicate a Child Care Worker for Report of Child Abuse and/or Neglect-Questions and Answers. This is an informational document explaining the impact of a determination of indicated child abuse/neglect and the appeal process.

"CANTS/SACWIS 11" or "C/S11" means the Department's document titled Notification of Indicated Decision in an Employment Related Report of Suspected

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Child Abuse and/or Neglect. This is the document by which the Department notifies a person that the Department has determined that there is credible evidence that he or she is responsible for the child abuse or neglect described in that document.

"Caregiver" means the child's parents, guardian, custodian or relative with whom the child lives and who has primary responsibility for the care and supervision of the child.

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services.

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. Child care facility includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

"Child care worker" means any person who is employed to work directly with children and any person who is an owner/operator of a child care facility, regardless of whether the facility is licensed by the Department. Child care facilities, for purposes of this definition, include child care institutions; child welfare agencies; day care/night care centers; day care/night care homes; day care/night care group day care homes; group homes; hospitals or health care facilities; schools, including school teachers and administrators, but not tenured school teachers or administrators who have other disciplinary processes available to them; and before and after school programs, recreational programs and summer camps. "Child care worker" also means persons employed as full-time nannies. A child care worker may, at his or her discretion, be subject to this Part if alleged to be responsible for child abuse or neglect outside of his or her employment. "Child care worker" includes a person: currently employed as a child care worker; currently enrolled in an academic program that leads to a position as a child care worker; or who has applied for a license required for a child care worker position. A person will be considered to be "employed as a child care worker" under this Part if, at the time of the notice of the investigation, he or she: has applied for, or will apply within 180 days for, a position as a child care worker; is enrolled in, or

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will commence within 180 days, an academic program that leads to a position as a child care worker; or has applied for a license as a child care worker.

"Child-placing agency" means a licensed public or private agency that receives a child for the purpose of placing or arranging for the placement of the child in a foster family home or other facility for child care, apart from the custody of the child's parents. [325 ILCS 2/10]

"Child Protective Service Unit" or "CPS" means certain specialized State employees of the Department assigned by the Director or his or her designee to perform the duties and responsibilities described under this Part. CPS staff is also referred to as investigative staff. [325 ILCS 5/3]

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"CPSW" means a Child Protective Service Worker.

"Collateral contact" means obtaining information concerning a child, parent, or other person responsible for the child from a person who has knowledge of the family situation but was not directly involved in referring the child or family to the Department for services.

"Credible evidence of child abuse or neglect" means that the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that a child was abused or neglected.

"Delegation of an investigation" means the investigation of a report of child abuse or neglect has been deferred to another authority. The Department maintains responsibility for determining whether the report is indicated or unfounded, entering information about the report in the State Central Register and notifying the subjects of the report and mandated reporters of the results of the investigation.

"Department" or "DCFS" means the Department of Children and Family Services.

"Determination" means a final Department decision about whether there is

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credible evidence that child abuse or neglect occurred. A determination must be either "indicated" or "unfounded".

"Disfigurement" means a serious or protracted blemish, scar, or deformity that spoils a person's appearance or limits bodily functions.

"Emergency medical facility" means a freestanding emergency center or trauma center, as defined in the Emergency Medical Services (EMS) Systems Act. [325 ILCS 2/10]

"Emergency medical professional" includes licensed physicians, and any emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, trauma nurse specialist, and pre-hospital RN, as defined in the Emergency Medical Services (EMS) Systems Act. [325 ILCS 2/10]

"Fire station" means a fire station within the State with at least one staff person~~that is staffed with at least one full-time emergency medical professional.~~ [325 ILCS 2/10]

"Formal investigation" means those activities conducted by Department investigative staff necessary to make a determination as to whether a report of suspected child abuse or neglect is indicated or unfounded. Those activities shall include: *an evaluation of the environment of the child named in the report and any other children in the same environment; a determination of the risk to such children if they continue to remain in the existing environments, as well as a determination of the nature, extent and cause of any condition enumerated in such report, the name, age and condition of other children in the environment; and an evaluation as to whether there would be an immediate and urgent necessity to remove the child from the environment if appropriate family preservation services were provided. After seeing to the safety of the child or children, the Department shall forthwith notify the subjects of the report, in writing, of the existence of the report and their rights existing under the Act in regard to amendment or expungement. [325 ILCS 5/3]*

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising a child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact,

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designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 must be met.

"Hospital" has the same meaning as in the Hospital Licensing Act [210 ILCS 85].

"Indicated report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Initial investigation" means those activities conducted by Department investigative staff to determine whether a report of suspected child abuse or neglect is a good faith indication of abuse or neglect and, therefore, requires a formal investigation. Good faith in this context means that the report was made with the honest intention to identify actual child abuse or neglect.

"Initial oral report" means a report alleging child abuse or neglect for which the State Central Register has no prior records on the family.

"Involved subject" means a child who is the alleged victim of child abuse or neglect or a person who is the alleged perpetrator of the child abuse or neglect.

"Legal custody" means the relationship created by a court order in the best interest of a newborn infant that imposes on the infant's custodian the responsibility of physical possession of the infant, the duty to protect, train, and discipline the infant, and the duty to provide the infant with food, shelter, education, and medical care, except as these are limited by parental rights and responsibilities. [312 ILCS 2/10]

"Local law enforcement agency" means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois Department of State Police.

"Mandated reporters" means those individuals required to report suspected child abuse or neglect to the Department. A list of these persons and their associated

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responsibilities is provided in Section 300.30 of this Part.

"Member of the clergy" means a clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs. [325 ILCS 5/3]

"Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support, or medical or other remedial care recognized under State law as necessary for a child's well-being (including where there is harm or substantial risk of harm to the child's health or welfare), or other care necessary for a child's well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who is a newborn infant whose blood, urine or meconium contains any amount of controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care under Section 4 of the Abused and Neglected Child Reporting Act. Where the circumstances indicate harm or substantial risk of harm to the child's health or welfare and necessary medical care is not being provided to treat or prevent that harm or risk of harm because the parent or other person responsible for the child's welfare depends upon spiritual means alone for treatment or cure, the child is subject to the requirements of this Act for the reporting of, investigation of, and provision of protective services with respect to the child and his or her health needs, and in such cases spiritual means through prayer alone for the treatment or cure of disease or for remedial care will not be recognized as a substitute for necessary medical care, if the Department or, as necessary, a juvenile court determines that medical care is necessary. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School

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Code. [325 ILCS 5/3]

"Newborn infant" means a child who a licensed physician reasonably believes is 7 days old or less at the time the child is initially relinquished to a hospital, police station, fire station, or emergency medical facility, and who is not an abused or a neglected child. [315 ILCS 2/10]

"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

"Person responsible for the child's welfare" means the child's parent, guardian, foster parent, relative caregiver, an operator, supervisor, or employee of a public or private residential agency or institution or public or private profit or not-for-profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, members of the clergy and volunteers or support personnel in any setting where children may be subject to abuse or neglect. [325 ILCS 5/3]

"Police station" means a municipal police station or a county sheriff's office. [315 ILCS 2/10]

"Private guardianship" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/Art. XI].

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt, or

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is the spouse of such a relative, or

is the child's step-father, step-mother, or adult step-brother or step-sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

"Relinquish" means to bring a newborn infant, who a licensed physician reasonably believes is 7 days old or less, to a hospital, police station, fire station, or emergency medical facility and to leave the infant with personnel of the facility, if the person leaving the infant does not express an intent to return for the infant or states that he or she will not return for the infant. In the case of a mother who gives birth to an infant in a hospital, the mother's act of leaving the new born infant at the hospital without expressing an intent to return for the infant or stating that she will not return for the infant is not a "relinquishment" under the Act. [325 ILCS 2/10]

"State Central Register" is the record of child abuse and/or neglect reports maintained by the Department pursuant to the Act.

"Subject of a report" means any child reported to the child abuse/neglect State Central Register, and his or her parent, personal guardian or other person responsible for the child's welfare who is named in the report.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated by the Department, subject to review by the Court. Temporary protective custody cannot exceed 48 hours, excluding Saturdays, Sundays and holidays.

"Undetermined report" means any report of child abuse or neglect made to the Department in which it was not possible to complete an investigation within 60 days on the basis of information provided to the Department.

"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

Section 300.180 Abandoned Newborn Infants

- a) Parental Relinquishment of a Newborn Infant
 - 1) In accordance with the Abandoned Newborn Infants Protection Act [325 ILCS 2], a parent of a newborn infant may relinquish the infant to [a](#) hospital, police station, fire station or emergency medical facility personnel within [307](#) days after the child's birth. Relinquishment of a newborn infant in accordance with the Abandoned Newborn Infant Protection Act does not render the infant abused, neglected or abandoned solely because the newborn infant was relinquished to a hospital, police station, fire station or emergency medical facility.
 - 2) If personnel of the hospital, police station, fire station or emergency medical facility to which the newborn infant is relinquished suspect child abuse or neglect that is not solely based on the newborn infant's relinquishment, they must report the suspected abuse or neglect to the Department's State Central Register. Hospital, police station, fire station and emergency medical facility personnel are mandated reporters under the Abused and Neglected Child Reporting Act.
 - 3) Neither a child protective investigation nor a criminal investigation may be initiated solely because a newborn infant is relinquished in accordance with the Abandoned Newborn Infants Protection Act.
 - 4) Newborn infants relinquished to a police station, fire station or emergency medical facility will be transported to the nearest hospital as soon as transportation can be arranged by the facility. If the parent of a relinquished infant returns to the facility to reclaim the infant within 72 hours, the facility must provide the parent with the name and location of the hospital to which the infant was transported.
- b) Medical Examination
 - 1) In accordance with the Abandoned Newborn Infants Protection Act, hospitals will have temporary protective custody of relinquished infants and will examine and perform medically reasonable tests that are appropriate to determine if the newborn infant has been abused or

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neglected. If the medical examination determines that there is no evidence of abuse or neglect and that the infant is no older than seven days, the relinquishing parent, if present, will be verbally notified by the facility that he or she can remain anonymous, and he or she will have to petition the court if he or she desires to prevent the termination of parental rights and regain custody of the child. The relinquishing parent will also be offered a packet of information that includes:

- A) Illinois Adoption Registry and Medical Information Exchange application;
 - B) Medical Information Exchange Questionnaire;
 - C) The Adoption Registry web site address and toll-free telephone number;
 - D) A resource list of providers of counseling services, including grief counseling, pregnancy counseling and counseling regarding adoption and other available infant placement options;
 - E) A notice that, no sooner than 60 days after the initial relinquishment of the infant, the child-placing agency or Department will commence proceedings to terminate parental rights and place the infant for adoption; and
 - F) A notice that failure of the parent to contact the placing agency or Department and petition for the return of custody of the infant before termination of parental rights bars any future action asserting legal rights with respect to the child.
- 2) If the medical examination of the relinquished child reveals that the child is abused or neglected or is not a newborn infant, the hospital and Department must proceed as if the child is an abused or neglected child.
- c) Notification to the Department's State Central Register (SCR)
Within 12 hours after a hospital accepts a newborn infant from a relinquishing parent, police, fire or emergency medical facility personnel, the hospital will report the infant in its custody to the State Central Register. The SCR will do the following:

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- 1) Maintain a list of licensed child-placing agencies willing to take legal custody of relinquished newborn infants on a rotational basis;
 - 2) Notify a licensed child-placing agency of the relinquished infant. If no licensed child-placing agency is able to accept the infant, the Department must assume responsibility for the infant as soon as practicable;
 - 3) Request assistance from law enforcement officials to investigate the incident using the National Crime Information Center to ensure that the relinquished infant is not a missing child. The check will be requested within 24 hours after receiving notification from a hospital.
- d) Child-Placing Agencies or the Department
- 1) **Acceptance of Abandoned Newborn Infants**
Child-placing agencies must accept an abandoned newborn infant, if the agency has the accommodations to do so, and place the infant in an adoptive home when possible. If no licensed child-placing agency is able to accept the infant, the Department must assume responsibility for the infant.
 - 2) **Petition for Legal Custody**
Within three business days after assuming physical custody of the infant, the child-placing agency or Department shall file a petition in the division of the circuit court in which petitions for adoption are heard. The petition shall allege that the newborn infant has been relinquished in accordance with the Abandoned Newborn Infants Protection Act, and shall state that the child-placing agency intends to place the child in an adoptive home. The custody order issued shall remain in effect until a final adoption order based on the infant's best interests is issued in accordance with the Abandoned Newborn Infants Protection Act and the Adoption Act [750 ILCS 50].
 - 3) **Putative Father Registry**
Within 30-days after the estimated date of birth of the relinquished newborn infant, the child-placing agency or Department must complete a search of the Department's Putative Father Registry in accordance with 89

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Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible).

- 4) No sooner than 60 days following the initial relinquishment of the infant to a hospital, police station, fire station or emergency medical facility, the child-placing agency or Department shall initiate proceedings to:
 - A) Terminate the parental rights of the relinquished newborn infant's known or unknown parent;
 - B) Appoint a guardian for the infant; and
 - C) Obtain consent to the infant's adoption.

- e) **Petition for Return of Custody**

A parent of a newborn infant relinquished in accordance with the Abandoned Newborn Infants Protection Act may petition the court for the return of custody of the infant prior to the termination of the parental rights.

 - 1) A parent of a relinquished newborn infant must contact the SCR to obtain the name of the child-placing agency to determine if a petition for termination of parental rights is pending. The parent must then file a petition for the return of custody in the appropriate circuit court.
 - 2) The circuit court may hold the proceeding for the termination of parental rights in abeyance for a period not to exceed 60 days from the date that the petition for the return of custody was filed without a showing of good cause. During that period:
 - A) The court will order genetic testing to establish maternity or paternity, or both;
 - B) The Department shall conduct a child protective investigation and home study to develop recommendations to the court;
 - C) When indicated as a result of the Department's investigation and home study, the court may conduct other proceedings under the Juvenile Court Act of 1987 [705 ILCS 405] that the court determines appropriate.

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- 3) If a parent fails to file a petition for return of custody prior to the termination of parental rights, the parent is barred from any future action asserting his or her legal rights with respect to the infant unless the parent's act of relinquishment that led to the termination of his or her parental rights involved fraud perpetrated against and not stemming from or involving the parent. No action to void or revoke the termination of parental rights of a parent of a new born relinquished in accordance with the Act, including an action based on fraud, may be initiated after 12 months from the date that the newborn was initially relinquished to a hospital, police station, fire station or emergency medical facility.
- f) Report to the Governor and General Assembly
- 1) The Department shall collect and evaluate information concerning the effect of the Abandoned Newborn Infants Protection Act in the prevention of injury to or death of newborn infants. Child-placing agencies shall provide the following information to the Department:
 - A) The number of newborn infants served by the agency;
 - B) The services provided to the infants;
 - C) The outcome of the care for the infants;
 - D) The disposition of the newborn infant cases;
 - E) Other relevant information requested by the Department.
 - 2) The Department shall submit a report the Governor and General Assembly by January 1 of every year regarding the prevention of injury to or death of newborn infants and the effect of placements of infants under the Abandoned Newborn Infants Protection Act. The report shall include:
 - A) A summary of collected data;
 - B) Analysis of the data and conclusions regarding the effectiveness of the Abandoned Newborn Infant Protection Act;

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- C) A determination of whether the purposes of the Abandoned Newborn Infants Protection Act are being achieved;
 - D) Recommendations for changes necessary to improve administration and enforcement of the Abandoned Newborn Infants Protection Act; and
 - E) Other information determined necessary by the Department.
- g) **Public Information Program**
The Department will initiate a public information program to promote safe placement alternatives for newborn infants and inform the public of the Abandoned Newborn Infants Protection Act. The Department may use any media elements appropriate for the dissemination of the information.
- h) **Confidentiality**
Personal information of persons relinquishing an infant in accordance with the Abandoned Newborn Infants Protection Act is confidential and shall not be released to the general public.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Services Delivered by the Department of Children and Family Services
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3) Section Number: 302.410 Proposed Action:
New
- 4) Statutory Authority: Children and Family Services Act [20 ILCS 505/5]
- 5) A Complete Description of the Subjects and Issues Involved: The Department is adding Section 302.410 to provide for the State to enter into kinship guardianship assistance agreements to provide kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children for whom they have cared for as licensed foster parents and for whom they have committed to care for on a permanent basis.
- 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 proposed rulemakings to this Part pending? 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)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station # 65

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Springfield, Illinois 62701-1498

Telephone: 217/524-1983

TTY: 217/524-3715

E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

13) Initial Regulatory Flexibility Analysis:

A) Types of businesses affected: The Department has determined that the proposed amendment will not have an economic impact on small businesses.

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 agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendment is identical to that of the Emergency Amendment found in this issue of the *Illinois Register*, which begins on page 14310.

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Public Notice of Change in License
- 2) Code Citation: 89 Ill. Adm. Code 376
- 3) Section Number: 376.30 Proposed Action: Amend
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10/5.2]
- 5) A Complete Description of the Subjects and Issues Involved: The Department is proposing to amend the address where public comments may be sent in response to the publication of the changes in a licensed facility as specified in this Part.
- 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) Do this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings to this Part pending? 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)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TTY: 217/524-3715

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: This rulemaking does not affect small businesses.
- 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 agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER d: LICENSING ADMINISTRATIONPART 376
PUBLIC NOTICE OF CHANGE IN LICENSE

Section

376.10	Purpose
376.20	Definitions
376.30	Public Notice and Department Approval

AUTHORITY: Implementing and authorized by Section 4(c) of the Child Care Act of 1969 [225 ILCS 10/4(c)].

SOURCE: Former Part 376 repealed at 17 Ill. Reg. 17915, effective October 5, 1993; new Part 376 adopted at 23 Ill. Reg. 6791, effective May 30, 1999; amended at 34 Ill. Reg. _____, effective _____.

Section 376.30 Public Notice and Department Approval

- a) A child care institution, maternity center or group home shall request in writing Department approval in accordance with 89 Ill. Adm. Code 403 (Licensing Standards for Group Homes) and 89 Ill. Adm. Code 404 (Licensing Standards for Childcare Institutions and Maternity Centers) to change the following:
 - 1) *the range of care or services offered at the facility,*
 - 2) *the age or type of children served, or*
 - 3) *the area within the facility used by the children.* [225 ILCS 10/4]
- b) Within ~~10~~^{ten} days after receipt of the request to make any of the changes specified in subsection (a) ~~above~~, the Department shall place a notice of the proposed changes in a newspaper of general circulation in the county or municipality in which the facility is located. The notice shall be published for ~~3~~^{three} consecutive weeks and shall be printed *in the total circulation of each edition on the date of publication of the newspaper in which the notice is published* as required by the Notice by Publication Act [715 ILCS 5/3].

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- c) The Department will accept public comments up to ~~5~~^{five} working days after the last publication date of the notice. ~~Comments~~^{Such comments} shall be submitted to:

Director's Office

Attn: Director's Assistant

406 E. Monroe, Stn #70

Springfield IL 62701

~~Deputy Director, Division of Operations and Community Services~~

~~Department of Children and Family Services~~

~~100 West Randolph, 6-200~~

~~Chicago, IL 60601~~

- d) No changes in any of the conditions in subsection (a) of this Section shall be made prior to the public notification required by this Part and approval by the Department.
- e) The Department will notify the licensee of approval or disapproval of the proposed changes no later than ~~10~~^{ten} working days after the last publication date of the notice.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Licensure of Direct Child Welfare Services Employees and Supervisors
- 2) Code Citation: 89 Ill. Adm. Code 412
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
412.20	Amend
412.30	Amend
412.40	Amend
412.50	Amend
412.60	Amend
412.80	Amend
412.90	Amend
412.100	Amend
- 4) Statutory Authority: 20 ILCS 505/5c and 5d
- 5) A Complete Description of the Subjects and Issues Involved: These proposed amendments address practice issues identified by the Direct Child Welfare Services Employee License Board and the Department's Office of the Inspector General. Other amendments implement Public Act 94-943, which requires direct child welfare services employees who transport children by motor vehicle to have a valid driver's license.
- 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 proposed rulemakings to this Part pending? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a

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period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 East Monroe Street, Station #65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TDD: 217/524-3715
FAX: 217/557-0692
E-Mail address: cfpolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments do not have an economic impact on small business.
 - 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 in which this rulemaking was summarized: This rulemaking was not included in the 2 most recent regulatory agendas because: it was not anticipated.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER f: GENERAL ADMINISTRATION

PART 412
 LICENSURE OF DIRECT CHILD WELFARE SERVICES
 EMPLOYEES AND SUPERVISORS

Section	
412.10	Purpose
412.20	Definitions
412.30	Organization and Administration of Licensing Program
412.40	Licensing Requirements
412.50	Grounds for Suspension, Revocation or Refusal to Reinstatement <u>or Renew a License</u>
412.60	Investigation, Notice and Proceedings Involving Formal Complaints
412.70	Final Administrative Decision
412.80	Revocation and Suspension of License
412.90	<u>Temporary Suspension by Board Action</u> Imminent Danger to the Public
412.100	<u>Reinstatement</u> Restoration of Revoked, or Suspended, <u>Relinquished or Expired</u> License
412.110	Severability of This Part

AUTHORITY: Authorized by Section 5c of the Children and Family Services Act [20 ILCS 505/5c].

SOURCE: Adopted at 24 Ill. Reg. 18068, effective December 1, 2000; amended at 26 Ill. Reg. 16461, effective October 23, 2002; amended at 34 Ill. Reg. _____, effective _____.

Section 412.20 Definitions

"Accredited college or university", for purposes of this Part, means a college or university that has been accredited by a regional or national institution accrediting association recognized by the U.S. Department of Education or non-governmental recognition counterpart.

"Administrative Law Judge" means a licensed attorney who is appointed by the Director of the Department and is responsible for conducting pre-hearings, motion hearings, and the administrative hearing, and issuing a recommended decision.

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"Administrative review" means a process in which an administrator of the Child Welfare Employee Licensure (CWEL) Office concludes a review of the Office of Inspector General findings in a pre-licensing investigation and makes a final decision on the application.

"Affirmative defense" means a reason that, assuming the factual charges are true, operates to limit or excuse the licensure action.

"Another jurisdiction" means a different entity that issues a license or certification that is subject to regulation by that entity.

"Appeal" means any case filed with the Administrative Hearings Unit asserting a right under 89 Ill. Adm. Code 336 (Appeal of Child Abuse and Neglect Investigation Findings) and 383 (Licensing Enforcement).

"Authorized representative" means a contractual employee or person, including an attorney, authorized in writing by a licensee to assist in the administrative hearing process.

"Board" means the Direct Child Welfare Service Employee Board created by Section 412.30(c).

"Case management services" means services that include the assessment and identification of client needs, the identification of available resources to meet client needs, the development of an individualized service plan, the coordination, monitoring and evaluation of services for each client, and advocacy for a client to assure that services and resources are accessible and provided.

"Chief Administrative Law Judge" means the person who is responsible for the supervision of the Administrative Law Judges and the coordination of the administrative hearing process.

"Child protection investigations" means a child abuse and neglect investigation that is conducted in accordance with 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect).

"Department" or "DCFS" means the Department of Children and Family Services.

"Department representative ~~Representative~~" means the person who is responsible

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for presenting the Department's case under this Part.

"Direct child welfare services employee" means a contractual employee or person employed by the Department of Children and Family Services (~~DCFS~~) or a purchase of service agency (i.e., child welfare agency, group home, child care institution, maternity center or child care facility as defined in this Part) who carries assigned cases, conducts child protective investigations, makes recommendations or approves placement decisions, recommends or approves family reunification decisions, provides casework to intact/family preservation cases, permanency or makes licensing decisions, or anyone who provides direct supervision to ~~a direct supervisor of~~ any of ~~these~~ the above employees.

~~"Discipline by another jurisdiction" means the licensee holds another license or certification that is subject to regulation by another licensing or regulatory body.~~

"Employee who carries assigned cases" means an employee assigned responsibility for a case opened in the Statewide Automated Child Welfare Information System (SACWIS) and Child and Youth Centered Information System (CYCIS).

"Exchange of information", for purposes of this Part, means the rights of any party to request and have access to, in advance of the pre-hearing, any documents, inculpatory and exculpatory evidence, and list of witnesses in the possession of any other party.

"Exculpatory evidence" means evidence tending to establish a person's innocence or evidence that tends to justify or clear a person from alleged fault or guilt.

"Expired license" means a license that has not been renewed.

"Final administrative decision" means the Direct Child Welfare Services Employee License Board final decision, order or determination in a particular case that affects the legal rights, duties or privileges of participants and that may be further appealed to the circuit court under the Administrative Review Law.

"Imminent danger to the public" means there is harm or immediate risk of ~~harmposing or impending harm or risk~~ to a child, family or community.

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"Inculpatory evidence" means evidence showing or tending to show a person's involvement in an act or tending to establish guilt or a fact, circumstance or involvement that tends to establish guilt or from which guilt may be inferred.

"License" means a document issued by the Department that is required to be held by a person in order to practice as a direct child welfare services employee, the qualifications for which are specified in Section 412.40~~include specific education and examination requirements.~~

"Licensee" means a direct child welfare services employee that holds a direct child welfare services employee license issued by the Department.

"License renewal" means the process by which a direct child welfare services employee is re-issued a license by the Department every four years following the initial issuance of the license. Re-issuance is dependent on the licensee meeting the requirements of Section 412.40(e).

~~"Minimum standard of child welfare practice" means the protection of children from foreseeable and preventable harm through minimally adequate services that protect and promote their health, safety, welfare and permanency.~~

"Office of Inspector General" or "OIG" means the Office of Inspector General of the Department of Children and Family Services.

"Persons" includes one or more individuals, partnerships, associations or organizations, labor organizations, labor unions, joint apprenticeship committees, corporations, the State of Illinois and its instrumentalities, legal representatives, trustees in bankruptcy or receivers.

"Pre-licensing review" means a process in which an administrator of the Child Welfare Employee Licensure Office (CWEL) concludes a review of the Office of Inspector General findings in a pre-licensing investigation and makes a final decision on the application.

"Preponderance of the evidence" means the greater weight of the evidence that renders a fact more likely than not.

"Purchase of service provider" or "POS provider" means an agency (i.e., child welfare agency, group home, child care institution, maternity center or child care

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facility) or individual offering services to a Department client through a signed contract with the Department.

"Reinstatement" means the restoration by the Board of the license of a direct child welfare services employee.

"Relinquishment" means a voluntary surrender of the child welfare employee license by the licensee to the CWEL Office.

"Respondent" means the licensee who has been served with a notice of administrative hearing.

"Revocation" means the process by which a license of a child welfare services employee is rescinded.

"Standard of child welfare practice" means the level of performance provision services necessary to protect children from foreseeable and preventable harm and to and promote their health, safety, welfare and permanency.

"Suspension" means a period of time during which a license is inoperative.

"Supervision" means responsibility for managing, overseeing, giving direction to, and providing guidance to a direct child welfare services employee, which includes approval of critical decisions and other tasks as defined through case management services.

"Temporary services agency" means an agency that provides a temporary direct child welfare services employee through a contract with the Department or a purchase of service agency.

"Valid driver's license or permit" means a license or permit issued by the Secretary of State that is of the proper classification for the purposes for which it is being used and that has not expired, been invalidated, denied, canceled, revoked, suspended or disqualified, or been used after a curfew or nighttime driving restriction. (See 92 Ill. Adm. Code 1030.1.) For purposes of this Part, a restricted driver's license will not be considered a valid driver's license, and a temporary visitor's license will be considered a valid driver's license.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 412.30 Organization and Administration of Licensing Program

- a) The Department shall:
- 1) Verify that individuals applying for a license or a license renewal licensure meet the educational requirements ~~of the position for which they are employed, as specified in Section 412.40(b) and (f).~~
 - 2) Authorize examinations that fairly test the knowledge and skills of applicants to be a direct child welfare services employee.
 - 3) Maintain licensing files for applicants and persons licensed by the Department to be a direct child welfare services employee.
 - 4) Maintain rosters of names and addresses of all current licensed direct child welfare services employees, and all persons whose licenses have been suspended or, revoked ~~or are pending suspension or revocation.~~
 - 5) Provide licensing status information concerning specific individuals to prospective employers within three business days after a written request is received. ~~(The Department and purchase of service agencies are required to check the license status of job applicants prior to hiring.)~~ Licensing status information shall include, but not be limited to, date of issuance and pending or implemented licensure action against the licensee, including complaint, investigation, suspension or revocation.
 - 6) Provide employers with information within three business days concerning any licensure action or any final administrative decision ~~for any licensee whose license had been reported to the employer as pending revocation or suspension.~~
 - 7) Provide licensees and current employers with written notice of expiration of license and an application for the renewal of a license within 90 days prior to the date of expiration.
 - 8) Obtain written statements from the applicant that attest that he or she is not in default of an educational loan in accordance with the Educational Loan Default Act [5 ILCS 385/2] and that he or she is not more than 30

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days delinquent in paying a child support order as specified in the Illinois Administrative Procedures Act [5 ILCS 100/10-65(c)].

- b) The Department and POS agencies shall:
- 1) Request a Child Abuse and Neglect Tracking System (CANTS) and Law Enforcement Agencies Data System (LEADS) background check on a prospective direct child welfare services employee prior to hiring the employee or as soon afterwards as is reasonably practicable.
 - 2) Verify the license status of job applicants/newly hired direct child welfare services employees with the Department's CWEL Office prior to assigning a caseload to the employee.
 - 3) Report licensure violations by direct child welfare services employees to the CWEL Office in accordance with Section 412.50.
 - 4) Any child welfare agency that permits cases to be carried in the name of a licensed supervisor or worker and allows a non-licensed worker to provide actual investigatory or casework services is in violation of Section 412.40(e)(1).
- c)b) Direct Child Welfare Services Employee License Board
The Direct Child Welfare Services Employee License Board (~~hereafter referred to as the Board~~) shall consist of nine members appointed by the Director of the Department. All persons appointed to the Board shall be residents of the State of Illinois and serve in a voluntary and unpaid capacity.
- 1) The nine member Board shall be composed of five licensed professionals from the field of human services as outlined in 89 Ill. Adm. Code 401.Appendix G, at least two of which shall be employed in the private not-for-profit sector and at least one from the public sector; two members who serve on the faculty of an accredited university and have child welfare experience; and two members of the general public who are not licensed under this Part or similar rule. Members chosen from the public must clearly represent consumer interests.
 - 2) All licensed professionals and faculty members must be in good standing within their profession. All members of the Board shall have no pending

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or indicated reports of child abuse or neglect, and no pending or criminal conviction of any offenses stipulated under the Criminal Code of 1961 listed in Section 4.2(b) of the Child Care Act of 1969 [225 ILCS 10/4.2(b)].

- 3) Board members are to recuse themselves from sitting on any matter involving an employee of a child welfare agency at which the ~~Board~~ member is an employee or contractual employee or any matter involving a person known by the ~~Board~~ member, or if the member has a personal or professional interest in the matter that would interfere with the ~~Board~~ member's ability to exercise objectivity or has any bias against the involved person.
- 4) Members appointed to the initial Board shall serve for one, two or three years. All successive appointments shall be for a term of three years. No member shall be reappointed if his or her reappointment would cause any conflict of interest or cause that person to serve on the Board for longer than six consecutive years. Appointments to fill unexpired vacancies shall be made in the same manner as original appointments.
- 5) Board membership shall have reasonable representation from different geographic areas of Illinois.
- 6) The Director may terminate the appointment of any member for good cause, which includes, but is not limited to, unjustified absences or failure to meet Board responsibilities, failure to recuse himself or herself as required by subsection (c)(3), or failure to maintain the professional position outlined in subsection (c)(1).
- 7) The Board shall make recommendations to the Director regarding licensure rules.
- 8) The Board shall have the authority to revoke, suspend or reinstate an employee's direct child welfare services license after a hearing under the provisions of Section 412.60. The Board may also reinstate licenses under the provisions of Section 412.100. Votes regarding final determinations can be cast in person, by telephonic or electronic means or by mail, at the discretion of the chairperson and upon notification of all members. A simple majority of the members appointed and serving is required when

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Board members vote by mail or by telephonic or electronic means. A majority of the quorum is required when a recommendation is voted on during a Board meeting.

- 9) The Director shall designate the chairperson and vice-chairperson of the Board annually.
- 10) Members of the Board shall be reimbursed for all authorized legitimate and necessary expenses incurred in attending the meetings of the Board.
- 11) A majority of the currently appointed and serving Board members shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.
- 12) Members of the Board shall have no individual liability in an action based upon ~~any~~ disciplinary proceeding or other activity performed in good faith as a member of the Board.
- 13) The Director may assign Department employees to provide staff services to the Board.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 412.40 Licensing Requirements

Direct child welfare services employees required to hold a Direct Child Welfare Services License shall be licensed under this Part and are required to renew the license every four years. ~~supervisors and workers employed by the Department of Children and Family Services or purchase of service agencies shall be licensed by the Department to practice as a direct child welfare services employee.~~

- a) Direct Child Welfare Services Employees Requiring Licensure Direct service casework managers, supervisors ~~Supervisors~~ and caseworkers who carry assigned cases and/or provide case management services for the purpose of workers that participate in investigation, casework, intact or family preservation, permanency, or foster care licensing decisions shall obtain a license to practice as a direct child welfare services employee.
- b) Qualifications for License

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The Department shall issue a license to an applicant who:

- 1) has applied in writing on the prescribed form and has not provided false information;
- 2) has had a background check completed in accordance with 89 Ill. Adm. Code 385 (Background Checks) has no pending or indicated reports of child abuse or neglect, and has no pending or criminal conviction of any offenses stipulated under the Criminal Code of 1961 listed in Section 4.2(b) of the Child Care Act of 1969 [225 ILCS 10/4.2(b)];
- 3) is a graduate of an accredited college or university with a minimum of a bachelor's degree or provides documentation of foreign equivalency of a minimum of a bachelor's degree from a college or university outside of the United States and meets the requirements of his or her position as defined in 89 Ill. Adm. Code 401 (Licensing Standards for Child Welfare Agencies) or employed by an agency or the Department in the position of a direct child welfare services employee, and the Department has deemed the individual as qualified;
- 4) has completed a prescribed Department pre-service course of training prior to the prescribed licensing examination;
- 5)4) has passed the examination to practice as a direct child welfare services employee as authorized by the Department (a score of at least 70% is required to pass the examination);
- 6)5) is not delinquent in paying a child support order as specified in Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65]; and
- 7)6) is not in default of an educational loan in accordance with Section 2 of the Educational Loan Default Act [5 ILCS 385/2];-
- 8) does not pose a possible danger to State resources. Convictions under the following laws within the Criminal Code of 1961 suggest a possible danger to State resources: Illinois Financial Crime Law [720 ILCS 5/16H]; Financial Identity Theft and Asset Forfeiture Law [720 ILCS 5/16G]; Financial Exploitation of an Elderly Person or a Person with a

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Disability [720 ILCS 5/16-1.3]; Section 16D-3 (Computer Tampering), Section 16D-4 (Aggravated Computer Tampering), and Section 16D-5 (Computer Fraud) of the Computer Crime Prevention Law [720 ILCS 5/16D]; Section 17-1 (Deceptive Practices), Section 17-3 (Forgery), Section 17-6 (State Benefits Fraud) and Section 17-24 (Fraudulent Scheme and Artifices) of Article 17 (Deception) of the Criminal Code of 1961 [720 ILCS 5/Art. 17]. The Department may issue a license to an applicant who has a criminal conviction of one or more of these offenses if, after careful review of the circumstances surrounding the convictions, through questioning the applicant and accessing and reviewing official documents, the Department determines that the applicant does not pose a threat to State resources;

- 9) has not engaged in conduct described in Section 412.50 or does not present a danger to children and no reasonably reliable contradictory information exists;
 - 10) has not relinquished his or her license during an employee licensure investigation, after the commencement of an employee licensure hearing, or had his or her license revoked or expired after the commencement of an employee licensure hearing. A licensee who has had his or her license revoked, relinquished or expired under these circumstances may only obtain a license through the reinstatement process; and
 - 11) holds a valid driver's license, has not been convicted of two or more moving traffic violations under the Illinois Motor Vehicle Code and has not been convicted of driving under the influence of alcohol or other drugs within the year prior to application for licensure.
- c) Referral to the Office of the Inspector General for Pre-Licensing Investigation
The CWEL Office may refer applicants to the Department's OIG for investigation during the licensing process if information indicates that the applicant has engaged in acts described in Section 412.50. The OIG will complete the investigation of the applicant within 30 days after the referral and provide the investigation findings to the CWEL Office. If the CWEL Office finds that the information from the OIG investigation provides the basis for refusal to issue a license, the CWEL Office may refuse to issue a license to the applicant.
- d)e) Licensing Examination

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- 1) The licensing examination shall be administered by the Department or designated testing service. It shall cover knowledge and skills including, but not limited to, understanding of child welfare laws and regulations applicable in Illinois, methods of protecting the safety and well-being of children, and the importance of and techniques for coordination of services.
- 2) The Department shall notify the employee and employer of the testing outcome within seven calendar days after testing date.
- 3) Applicants shall be allowed ~~threetwo~~ three initial attempts to pass the written examination within 12 months, and one attempt annually from the last failure date thereafter. Applicants are required to pass the examination before they are allowed to practice as a direct child welfare services employee.

e)4 License Restrictions and Limitations

- 1) All direct child welfare services employees and supervisors must obtain a license under ~~provisions of~~ this Part to be employed as a direct child welfare services employee by January 1, 2001 or their authority to practice such services shall be terminated. Until the employee obtains a license, he or she may assist a licensed child welfare services employee, but may not be the worker of record.
- 2) After January 1, 2001, no person shall be allowed to practice as a direct child welfare services employee unless that person has been issued a license under this Part.
- 3) After January 1, 2014, no person previously holding a direct child welfare services license shall be allowed to practice as a direct child welfare services employee without meeting the requirements for renewal of his or her license under this Part. The Department will establish a schedule to phase in the requirement for license renewals.
- 4)3) Licensed direct child welfare services employees are responsible for remaining current with changes in law, rule and procedures governing child welfare services. Licensees who fail to notify the CWEL Office of

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~~any address change will have waived their right to object to improper service when the Department provides service to last address reported to the CWEL Office by the licensee. The Department will periodically offer training sessions to prepare candidates for licensure examination, to inform licensees of new or revised Department programs and policies, etc. When the Director determines that the training is essential for adequate performance by licensees, the Department will announce that the training is mandatory. Licensed direct child welfare services employees are encouraged to participate in optional training offered by the Department, and must participate in all mandatory training.~~

- 5)4) This license does not allow any person to represent herself or himself as a licensed social worker or licensed clinical social worker as defined under the Clinical Social Work and Social Work Practice Act [225 ILCS 20]. The license is solely for the purpose of employment with the Department or with a purchase of service agency or a temporary services agency as a direct child welfare services employee.

f) Qualifications for Renewal of a License

- 1) The Department shall renew a licensee when the licensee complies with the following conditions:
- A) has applied in writing on the prescribed renewal form and has not submitted any false information as part of the application process;
 - B) has no pending or indicated reports of child abuse or neglect, and has no pending or criminal conviction of any offense stipulated under the Criminal Code of 1961 listed in Section 4.2(b) of the Child Care Act of 1969;
 - C) has completed 40 clock hours of Department approved child welfare continuing education training every four years from the initial issuance date of the license or its renewal date. The Department will periodically offer optional in-service/continuing education training sessions to inform licensees of new or revised Department programs, policies or other information. Training will be mandatory when the Director determines that the training is

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essential to the performance of the job duties of licensed direct child welfare services employees;

D) verifies in writing that he or she is not in default of an educational loan;

E) verifies in writing that he or she is not delinquent in paying a child support enforcement order;

F) has not relinquished his or her license; and

G) has not had his or her license revoked or suspended.

2) Failure to meet the requirements in this subsection (f) shall result in an expired license, and the applicant will be required to apply for reinstatement in accordance with Section 412.100.

g) Voluntary Relinquishment of a License

1) A licensee may voluntarily relinquish his or her license.

2) A license voluntarily relinquished during a pending licensure or disciplinary investigation or administrative proceeding shall be recorded in the licensee's CWEL file as relinquished during licensure or disciplinary investigation or administrative proceeding.

3) Voluntary relinquishment of a license must be filed with the CWEL Office on a prescribed form. The form must contain an acknowledgment that reinstatement will be subject to consideration of the facts disclosed in any pending licensure investigation or administrative proceeding. Voluntary relinquishment does not divest the OIG of the jurisdiction to complete a pending investigation.

4) An application for a license from an applicant who previously relinquished his or her license shall be considered a request for reinstatement rather than an application for license.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 412.50 Grounds for Suspension, Revocation or Refusal to Reinstatement or Renew a License

- a) Causes for Licensure Action
The Board may suspend, revoke or refuse to reinstate any license with regard to any direct child welfare services employee license issued by the Department for any of the following acts:
- 1) violation or negligent disregard of this Part;
 - 2) a charge or criminal conviction of any offenses stipulated under the Criminal Code of 1961 listed in the Child Care Act of 1969 (a charge may result only in suspension or temporary refusal to reinstate);
 - 3) making any misrepresentation for the purpose of obtaining a license or renewal of a license, including, but not limited to, failure to certify on the form, or a false statement, that the applicant is not more than 30 days delinquent in complying with a child support order;
 - 4) an egregious act that demonstrates incompetence, unfitness or blatant disregard for one's duties in providing direct child welfare services;
 - 5) a pattern of deviation from a ~~minimum~~ standard of child welfare practice that could result in an injury to a child;
 - 6) aiding or assisting another person in violation of any provision of this Part;
 - 7) failing to provide information regarding employee licensure investigation, as approved by the Board's Emergency Licensing Review Team (ELRT), within ~~2060~~ days ~~after in response to~~ a written request made by the Department ~~related to an alleged violation of this Part~~;
 - 8) habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a worker's inability to practice with reasonable judgment, skill, or safety. (This shall not include any person who has sought, will seek or is receiving substance abuse treatment if it does not impact on their ability to practice with reasonable judgement, skill or safety-);

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- 9) discipline by another state or national licensing entity when the grounds for suspension, revocation or refusal to reinstate are substantially the same as at least one of the grounds established in this Section;
 - 10) falsification of case records, court reports or court testimony;
 - 11) failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act (ANCRA);
 - 12) being named as an alleged perpetrator in a pending child abuse or neglect report ~~that may only result in suspension or refusal to reinstate pending the outcome of the child abuse or neglect investigation; and~~
 - 13) being named as a perpetrator in an indicated report by the Department under ANCRA unless or until the indication is reversed on appeal or administrative court review in accordance with 89 Ill. Adm. Code 336 (Appeal of Child Abuse and Neglect Investigation Findings). The Board shall consider 89 Ill. Adm. Code 385.50 (Background Checks) when applying subsections (a)(12) and (13); and
 - 14) receiving more than two offenses for operating a motor vehicle against traffic regulations governing the movement of vehicles within a 12-month period or being convicted of reckless driving, driving under the influence of alcohol or other drugs, manslaughter or reckless homicide resulting from the operation of a motor vehicle.
- b) Other Causes for Licensure Action
- The Department shall refuse to renew and the Board shall~~may~~ suspend, revoke or refuse to reinstate any license for the following causes:
- 1) Mental Health and Developmental Disabilities
Involuntary admission of a licensee to a mental health facility as provided in the Mental Health and Developmental Disabilities Code shall result in an automatic suspension of his or her license. The license may be reinstated by the Board after a court finding that the licensee is no longer subject to involuntary admission.
 - 2) Delinquent Compliance With a Child Support Order
Upon a final finding of delinquency or failure to comply with a subpoena

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or warrant, the Department shall refuse to renew, or the Board shall refuse to reinstate or shall suspend or revoke the license~~Board shall refuse to reinstate or shall suspend or revoke the license~~ of a person who is more than 30 days delinquent in paying a child support order as specified in Section 10-65 of the Illinois Administrative Procedure Act ~~[5 ILCS 100/10-65]~~. The license may be reinstated by the Board or renewed by the CWEL Office after a finding that the licensee is no longer delinquent in paying a child support enforcement order.

- 3) Default of Educational Loan
The Department shall refuse to renew and the Board shall refuse to reinstate or shall suspend or revoke the license of a person who is found to be in default of an educational loan in accordance with Section 2 of the Educational Loan Default Act ~~[5 ILCS 385/2]~~. The license may be reinstated by the Board or renewed by the Department after a finding that the licensee is no longer in default of the educational loan.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 412.60 Investigation, Notice and Proceedings Involving Formal Complaints

- a) Complaints
Complaints shall be made to the CWEL Office~~the appointed staff to the Board~~ for determination as to whether the complaint meets the description of the grounds for licensure action as defined in Section 412.50. The ELRT comprised of appointed CWEL staff, the Board chair~~Chairman~~ or vice-chair~~Vice-Chairman~~, and the Office of Inspector General (~~OIG~~) shall review the complaint to determine whether the complaint meets the description of one or more of the grounds for licensure action as defined in Section 412.50. If there is a consensus that the complaint meets the description of one or more of the grounds for licensure action, the report shall be forwarded to the Office of the Inspector General for investigation.
- b) Office of the Inspector General
- 1) Investigation
The Department's Office of the Inspector General shall investigate formal complaints made to the Board regarding the actions of any person holding a license. The OIG may impound (pursuant to 89 Ill. Adm. Code 431.130)

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and subpoena (pursuant to 20 ILCS 505/35.5 and 89 Ill. Adm. Code 430) documents relevant to an investigation authorized under this Part. The OIG will review documents and interview relevant persons to determine whether a licensed employee violated any of the provisions of this Part. All investigations under this Part shall be completed within 30 days after the date that all documents have been gathered and all interviews completed. The OIG shall provide a Notice of Hearing pursuant to subsection (c), provided, however, that no adverse licensure action (other than summary suspension in accordance with 89 Ill. Adm. Code 412.80 and 412.90) can be made before the employee has been informed of the allegations and given an opportunity to respond.

2) Proposed Action

If, after an investigation, the OIG determines that licensure action is inappropriate but that there is a basis for disciplinary action, it shall proceed according to 20 ILCS 505/35.5. If the investigation discloses possible criminal acts or violations of rules, the OIG may also refer the investigative findings or the investigation to the appropriate law enforcement or regulatory agency. If the OIG determines that licensure action may be appropriate, the OIG will request the Administrative Hearings Unit to schedule an administrative hearing under subsection (c) ~~of this Section~~. If the investigation does not provide a basis for adverse licensure action, disciplinary action or referral to law enforcement, the OIG will so notify, in writing, the Board and the licensee ~~in writing if the licensee was informed of the investigation~~. The OIG will also inform the employer of the close of the licensure investigation if the employer had been notified of the investigation.

3) Referrals from the OIG

When the OIG directly investigates an allegation or incident pursuant to 20 ILCS 505/3.5 and determines that the facts disclosed merit licensure action, the OIG shall file a complaint with the CWEL Board Office citing the basis for licensure action. Complaints originating from the OIG shall be reviewed in accordance with subsection (a). If the ELRT Board accepts the complaint, the OIG shall proceed in accordance with subsections (b)(1) and (2). Complaints filed directly with the OIG that seek licensure action shall be forwarded to the CWEL Office Board in accordance with subsection (a).

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- c) Notice of Administrative Hearing
- When the Office of the Inspector General requests, the Administrative Hearings Unit shall identify the date, time and place for an administrative hearing, and shall assign an Administrative Law Judge to the case. The Office of the Inspector General shall then notify the licensee in writing, at least 30 calendar days before the scheduled hearing date, of the Department's intent to revoke or suspend his or her license and of the right of the licensee to an administrative hearing. The notice shall be sent to the licensee, the Board and the Administrative Hearings Unit. The notice to the licensee shall be served by personal delivery or certified or registered mail. The notice shall contain the following:
- 1) the date, time, place and nature of the hearing;
 - 2) the name of the licensee and the address of the licensee, if not represented by counsel, or the address of the counsel, if represented by counsel;
 - 3) the name and business address of the Department's Representative, if any, at the administrative hearing;
 - 4) a citation to the provision in the Children and Family Services Act [20 ILCS 505/5c] that grants the Department of Children and Family Services the legal authority and jurisdiction to hold this hearing;
 - 5) a reference to the particular Sections of the statutes and administrative rules involved;
 - 6) a short and plain statement of the matters that are the basis of the complaint;
 - 7) the reasons that may be deemed an abandonment under [subsection Section 412.60\(ne\)](#) and the cause for the entry of a final administrative decision before hearing, including the failure to file an answer to the notice of administrative hearing or the failure to appear at a pre-hearing or hearing without having first obtained a continuance;
 - 8) the docket number assigned to this case;
 - 9) the name and mailing address of the Administrative Law Judge and any other parties, unless the names or addresses are confidential under the

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Abused and Neglected Child Reporting Act or Department of Children and Family Services Act, or other applicable statute;

- 10) a statement of the action sought, including but not limited to revocation, suspension or refusal to renew a license; and
 - 11) date the notice was filed with the Administrative Hearings Unit.
- d) Answer to the Notice of Administrative Hearing
The respondent shall serve an answer within 15 calendar days after the date on which the notice of administrative hearing is filed with the Administrative Hearings Unit. The answer shall be in writing and signed by the respondent or the respondent's authorized representative, and shall include the respondent's telephone number. The answer shall admit or deny the charges or shall state that the respondent lacks sufficient information to admit or deny the charges. If the respondent fails to admit, deny or assert that respondent lacks sufficient information to answer, the charge shall be deemed admitted as true. The answer shall also provide any information that establishes a factual basis for an affirmative defense to the charges. Failure to do so may result in the Administrative Law Judge barring the respondent from presenting the defense at any hearing on the licensing matter.
- e) Rights and Responsibilities in Administrative Hearings
- 1) Appearance/Authorization to Represent
 - A) A respondent may bring an authorized representative and witnesses to the hearing. The respondent shall pay expenses of a representative or respondent's witnesses.
 - B) No person shall be allowed to act as an authorized representative in any matter contested before the Administrative Hearings Unit without first filing a written authorization with the Administrative Hearings Unit. The authorization shall be effective only for the particular matter in which it is filed, unless the matter has been consolidated with other proceedings by order of the Chief Administrative Law Judge or the assigned Administrative Law Judge.

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- C) No particular form is required to file a written authorization for representation. However, all authorizations filed with the Administrative Hearings Unit shall be notarized, signed by the respondent and authorized representative, and identify:
 - i) the name, address, and phone number of the party represented;
 - ii) the name, address, and phone number of the authorized representative; and
 - iii) the administrative hearing in which representation is authorized.

- D) An authorized representative may exercise the rights of the respondent in the hearing process. These rights include the right to:
 - i) review and copy material placed in the record during the proceeding;
 - ii) receive Department, Board, and administrative hearing notices;
 - iii) request and receive discovery materials;
 - iv) speak, or otherwise be heard, on behalf of the respondent in the administrative hearing process; and
 - v) take any other actions permitted a respondent during the hearing process.

- 2) During the administrative hearing, the respondent and the Department have the right to:
 - A) present and question witnesses;
 - B) present any information relevant to the issues;

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- C) question or disprove any information, including an opportunity to question opposing witnesses; and
 - D) dispose of any disputed issue by stipulation, agreed settlement, consent order, or default.
- 3) Before and during the administrative hearing:
- A) the respondent may withdraw from the hearing process and relinquish the license; and
 - B) the Department may amend the charges.
- 4) The proceedings shall be tape recorded or conducted before a certified court reporter.
- f) Confidentiality During the Hearing Process
- 1) The Administrative Law Judge has the right to exclude from an administrative hearing any individual or agency who does not have the right of access to the information being presented in accordance with the federal Adoption Assistance and Child Welfare Act, the Children and Family Services Act, the Abused and Neglected Child Reporting Act, and any other pertinent Act.
 - 2) The Administrative Law Judge has the authority to bifurcate the hearing into separate segments that deal with issues of other parties in order to preserve confidentiality as mandated under applicable statutes and rules and to prohibit discussion or introduction of evidence that is outside of the scope of the issues being presented in that segment.
 - 3) Confidentiality During the Hearing Process
The Department has an affirmative duty to protect the confidentiality of personal information, in accordance with 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services) and the Adoption Assistance and Child Welfare Act (42 USC 671(a)(8)). Confidentiality shall be preserved throughout the administrative hearing, the transmittal of the Administrative Law Judge's recommendation to the Board and the

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release of the final administrative decision. None of the documents, including the Administrative Law Judge's recommendation to the Board, shall be subject to the Freedom of Information Act [\[5 ILCS 140\]](#). The final administrative action, however, shall be public information.

- g) The Administrative Hearing and Pre-hearing Conference
 - 1) Rules of Evidence

In an administrative hearing the OIG carries the burden of proving, by a preponderance of the evidence, grounds for suspension, revocation or refusal to reinstate license as listed in Section 412.50.

 - A) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the circuit courts of this State shall be followed. Evidence not admissible under those rules of evidence may be admitted, ~~unless however, (except where~~ precluded by statute,) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form.
 - B) Previous statements made by a child relating to abuse or neglect shall be admitted as hearsay exceptions.
 - C) In addition to any other hearsay exception that exists in Illinois, a statement may be admitted if it has circumstantial guarantees of trustworthiness, and if the probative value of the statement outweighs any prejudice resulting from an inability to cross-examine the declarant.
 - 2) Motions
 - A) Copies of the motion shall be served upon the Administrative Law Judge, the Administrative Hearings Unit, and the opposing party at least 10 days before the date set for hearing.

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- B) The Administrative Law Judge may hear any motion that is consistent with administrative practice and procedure.
- 3) The Chief Administrative Law Judge or the Administrative Law Judge may schedule a pre-hearing conference.
- A) The Administrative Law Judge shall address the following issues during the pre-hearing conference:
 - i) whether parties have exchanged lists of the persons who will provide testimony during the administrative hearing;
 - ii) whether witnesses should be scheduled to testify at specific times;
 - iii) whether the parties have or will have exchanged records or documents prior to the administrative hearing;
 - iv) whether the parties can agree upon any facts as true;
 - v) motions filed by any party;
 - vi) the need for an interpreter for a party whose primary language is not English or who requires communication assistance.
 - B) The pre-hearing conference shall be convened by telephone unless the Administrative Law Judge and the parties agree to an in person pre-hearing conference. The Administrative Law Judge shall place all telephone calls. The cost of telephone calls shall be borne by the Department. The Administrative Hearings Unit shall arrange for the respondent to use a telephone at a Department Field Office if the respondent has previously notified the Department that he/she does not have access to a telephone.
 - C) The Administrative Law Judge may order the parties to attend the pre-hearing conference in person without the consent of all parties. If the Administrative Law Judge orders personal attendance, the Administrative Law Judge shall:

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- i) give written notice to the parties of the date, time and place of the pre-hearing conference; and
 - ii) hold the pre-hearing conference at a place and time convenient for the parties.
- h) The Administrative Law Judge
 - 1) Appointment of the Administrative Law Judge

The Chief Administrative Law Judge shall select a trained, impartial Administrative Law Judge from the available pool to conduct the administrative hearing. The Administrative Law Judge shall:

 - A) be an attorney licensed to practice law in the State of Illinois;
 - B) possess knowledge and information acquired through training and/or experience relevant to the field of child and family welfare law and administrative law, including familiarity with Department rules, procedures and functions;
 - C) not have been involved in the decision to take the action being contested or have rendered legal advice to the decision-maker on the issue; and
 - D) not have a personal or professional interest that interferes with exercising objectivity or have any bias against the parties or issues contested. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest.
 - 2) Functions and Authority of the Administrative Law Judge

The Administrative Law Judge shall have all authority allowed under Article 10 of the Illinois Administrative Procedure Act ~~[5 ILCS 100/Art. 10]~~ that includes, but is not limited to, the authority to:

 - A) conduct a fair, impartial and formal hearing;
 - B) inform participants of their individual rights and their responsibilities;

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- C) conduct pre-hearing telephone conferences between the parties or their authorized representatives to provide information about the procedural aspects of the hearing, narrow the issues and discuss possible stipulations and contested points of law, in order to expedite the actual hearing;
 - D) take necessary steps to develop a full and fair record that contains all relevant facts;
 - E) administer an oath or an affirmation to all witnesses;
 - F) quash or modify ~~subpoenas~~ ~~subpoenas~~ issued by the Administrative Hearings Unit for good cause, including but not limited to, relevance, scope, materiality and emotional harm or trauma to the subpoenaed witness;
 - G) preserve all documents and evidence for the record;
 - H) rule upon evidentiary issues and contested issues of law at the hearing or take matters under advisement pending issuance of the written opinion and recommendation;
 - I) order the removal of any person from the hearing room who is creating a disturbance whether by physical actions, profanity or conduct that disrupts the hearing;
 - J) identify the issues, consider all relevant facts and receive or request any additional information necessary to decide the matter in dispute, including but not limited to the submission of briefs, memoranda of law, affidavits or post-hearing briefs;
 - K) for good cause shown, the Administrative Law Judge may, on the judge's own motion or the motion of any party, allow a witness to testify at the administrative hearing by telephone.
- i) Consolidating and Severing Issues and Parties
 - 1) When common issues of fact or law are raised in more than one set of

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charges or involve more than one licensee, the Chief Administrative Law Judge may consolidate the charges into a single group hearing. Individuals shall be permitted to present their own cases separately. Nothing in this Section shall override confidentiality considerations.

- 2) The Chief Administrative Law Judge may also combine all sets of charges, appeals and issues involving a single respondent, whether arising under this Part or any other Part, into one hearing.
 - 3) The Chief Administrative Law Judge, if required for the fair and efficient administration of the hearing or to prevent possible prejudice to the respondent, may sever any party or any issue from the consolidated hearing. The party or issue severed from the consolidated hearing shall be heard separately.
 - 4) The Chief Administrative Law Judge shall decide the order in which to hear any party, appeal or issue that has been severed.
 - 5) The Chief Administrative Law Judge may delegate the power to hear and decide any action to consolidate or sever under this Section to any Administrative Law Judge who has been assigned to hear one or more of the appeals.
- j) Exchange of Information
- 1) All requests for information must be in writing and sent to the party from whom the information is sought at least 20 calendar days in advance of the hearing. The requestor must send a copy of the request to the Administrative Hearings Unit. A party, without leave of the Administrative Law Judge, may request from any other party:
 - A) a list of witnesses to be called at the hearing; and
 - B) copies of all documents that a party intends to present to the Administrative Law Judge at the hearing.
 - 2) Copies of all requests for information shall be filed with the Administrative Hearings Unit. All requests for information shall be answered within 10 calendar days after receipt unless, upon good cause

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shown, leave is sought for additional time to answer.

- 3) If a party fails to answer a request for information, the Administrative Law Judge may enter any just and appropriate order to advance the disposition of the matter.
 - 4) Hearings shall not be delayed to permit the exchange of information unless timeliness and due diligence is shown by the party seeking the information.
- k) Continuances
- 1) The Administrative Law Judge shall grant no continuance of a scheduled hearing or pre-hearing conference to any party except for good cause shown. Good cause includes, but is not limited to:
 - A) sickness or death in the immediate family of the respondent, the Department representative or the authorized representative of the respondent;
 - B) court or administrative hearing dates scheduled prior to the issuance of the notice of hearing;
 - C) the need to secure counsel;
 - ~~D)E~~ the unavailability of a witness; and
 - ~~E)D~~ adding or amending the charges in the complaint.
 - 2) No request for a continuance shall be granted without notice to all parties and an opportunity to object on the record. All motions for continuance shall be disposed of by written order.
 - 3) If a continuance is requested due to the lack of a certified court reporter or interpreter, the party seeking a continuance must demonstrate due diligence in seeking ~~that~~such service for the hearing date.
 - 4) Notices of a continued hearing date need not include any restatement of the rights of the parties.

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- l) Attendance of Witnesses
A party or Administrative Law Judge may ~~subpoenas~~~~subpeona~~ a witness by requesting that the Chief Administrative Law Judge issue a subpoena to compel the attendance of the witness. The request shall be made at least 14 calendar days before the hearing. Requests for ~~subpoenassubpeonas~~ made less than 14 calendar days before the hearing require the leave of the Chief Administrative Law Judge or the Administrative Law Judge. Witness fees and travel expenses for persons other than Department or private agency or temporary services agency employees are the responsibility of the party requesting the ~~subpoenas~~~~subpeona~~.
- m) Grounds for Entry of a Final Administrative Decision before Hearing
The Chief Administrative Law Judge or the Administrative Law Judge shall recommend licensure action to the Board, without further hearing, when:
 - 1) the Department, the Board or a court of competent jurisdiction has already made a final administrative decision on the issue as a result of a previous administrative hearing or court decision;
 - 2) the respondent does not file an answer within 15 calendar days after the day the notice of administrative hearing was filed with the Administrative Hearings Unit;
 - 3) the respondent has stated in writing that the respondent does not wish to proceed to administrative hearing;
 - 4) the right to an administrative hearing has been abandoned pursuant to subsection (n); or
 - 5) the issue ~~is~~~~if~~ otherwise not within the jurisdiction of the Administrative Hearings Unit.
- n) Abandonment of Right to Administrative Hearing/Default
 - 1) The Administrative Hearings Unit shall find that the respondent has abandoned the right to an administrative hearing when:
 - A) the respondent has not filed an answer to the notice of administrative hearing, within 15 calendar days after the notice of

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- administrative hearing was filed with the Administrative Hearings Unit; or
- B) the respondent or the respondent's authorized representative has failed to appear at the [scheduled pre-hearing or](#) hearing and failed to respond to the written notification of the finding of abandonment within 30 days, showing good cause why the finding should be vacated; or
- C) the respondent failed to notify the [CWEL Office or](#) Chief Administrative Law Judge of a change of address, and a notice of the administrative hearing, sent to the respondent's last known address, was returned as "undeliverable;" "unclaimed;" "refused;" "moved;" or "no forwarding address".
- 2) The Administrative Hearings Unit shall find that the Department or the respondent has abandoned the right to an administrative hearing when the Department or the respondent or the respondent's authorized representative, without good cause, fails to appear at a hearing or pre-hearing conference without having received a continuance.
- 3) Any party seeking to vacate a finding of abandonment under subsections (n)(1)(A) and (B) shall file a motion within 30 days after notice of the entry of a finding of abandonment or default, showing good cause why the party failed to appear. A recommendation to the Board regarding licensure action will be entered:
- A) at the end of 30 days if the respondent does not file a motion to vacate; or
- B) when the Administrative Hearings Unit determines that good cause for the failure to appear does not exist.
- o) **Record of an Administrative Hearing**
The Chief Administrative Law Judge shall maintain the record of the administrative hearing and the final administrative decision. All final administrative decisions shall be available to any party for public inspection during regular business hours. However, confidential information shall be deleted in accordance with 89 Ill. Adm. Code 431 (Confidentiality of Personal

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Information of Persons Served by the Department of Children and Family Services).

- p) Recommendation of Administrative Law Judge
- 1) The Administrative Law Judge shall prepare a recommendation, with findings of fact, conclusions of law, and whether to suspend the respondent's license, revoke the respondent's license, ~~refuse to restore the respondent's license~~, let the respondent's license continue in good standing or take any other action regarding the license. The Administrative Law Judge shall submit the hearing record and recommendation to the Board and all parties. The parties shall have 20 calendar days to file exceptions and a brief to the recommendation of the Administrative Law Judge. The exceptions shall be filed with the CWEL Office for consideration by the Board. The parties shall have 20 additional calendar days to respond to the exceptions and brief filed by any other party.
 - 2) The Board shall accept the Administrative Law Judge's findings of fact as true unless it finds that the findings of fact are contrary to the manifest weight of the evidence. The Board may:
 - A) issue a final administrative decision by accepting the recommendation of the Administrative Law Judge; or
 - B) issue a final administrative decision by making its own findings of fact or conclusions of law that shall be based solely on the record; or
 - C) remand the case to the Administrative Hearings Unit for further proceedings. When the Board remands a case, it shall issue a written order specifying the nature and scope of the additional proceedings. The Administrative Hearings Unit shall schedule a new hearing date that shall be between 15 and 90 calendar days after the date of the remand order. The Administrative Hearings Unit shall notify all parties of the new date. The Administrative Law Judge shall issue a supplemental recommendation and shall serve a copy on all parties. The Board shall review the supplemental recommendation in the same manner as the initial recommendation.

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(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 412.80 Revocation and Suspension of License

Upon the Board's final administrative decision to revoke or suspend a license, the licensee shall immediately surrender his or her license to the Department. Upon failure to do so by the licensee, the Department shall provide for deactivation of licensure. ~~The Board may temporarily suspend a license pursuant to Section 412.50(a)(2) or (12) or Section 412.90 without a full hearing on the charges. A post-suspension hearing will be scheduled within 30 days after the suspension but will be limited to the question of whether temporary suspension is warranted. A full hearing on the charges will be scheduled after the investigation is completed, if appropriate. The Notice of Temporary Action Hearing shall be sent to the licensee and the employer of the licensee.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 412.90 Temporary Suspension by Board Action~~Imminent Danger to the Public~~

The Board may temporarily suspend the license of a direct child welfare services employee without a hearing as defined in Section 412.60, simultaneously with the receipt of a complaint that contains sufficient indications of reliability and suggests that the licensee may pose an imminent danger to the public if allowed to continue practicing direct child welfare services pending licensure action or pursuant to Section 412.50(a)(2) or (12). A post-suspension hearing will be scheduled with the Administrative Hearings Unit within 30 calendar days after the temporary suspension, but will be limited to the question of whether temporary suspension is warranted. The Notice of Post-Suspension Hearing shall be sent to the licensee and the employer of the licensee. A Temporary Suspension Notice shall state the event upon which the temporary suspension will expire. A full hearing on the charges will be scheduled if charges are filed following completion of the investigation. The Administrative Law Judge shall prepare a recommendation with findings of fact and conclusions of law as to whether the suspension was warranted. The Administrative Law Judge shall submit the hearing record and recommendation to the Board and all parties. The Board shall have the final decision-making authority.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 412.100 Reinstatement~~Restoration~~ of Revoked, ~~or~~ Suspended, Relinquished or Expired License

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a) Reinstatement

- 1) A licensee may request the reinstatement of his or her revoked, suspended or relinquished license, or a license for which renewal was refused by submitting a request to the Board through the CWEL Office that provides specific information that supports the request.
- 2) A request for reinstatement may be submitted in writing to the CWEL Office no earlier than 30 business days after receipt of the written notice of license suspension or revocation.
- 3) The CWEL Office shall notify the OIG within 10 days after receipt of a request for reinstatement of a license. The OIG may file a written objection to the request within 30 days after receipt of the notice from the CWEL Office.
- 4) The Board shall consider any charges filed, along with a report or sworn statement by the OIG regarding evidence developed in the investigation when considering an application to reinstate a license or grant a license that was relinquished or expired during a pending licensure investigation or administrative proceeding. For the purpose of considering a request for reinstatement of a license, the Board shall review the facts developed during the investigation. The Board may request additional information from the OIG and/or the licensee.
- 5) A licensee may request the restoration of his or her license by submitting a written request to the Board providing specific reasons to support the request. The Board may not reinstate a license ~~when~~ where it has been determined by investigation and administrative hearing that it is not in the best interest of the public to do so. Considerations that will be reviewed when making a finding of "in the best interest of the public" include, but are not limited to: the nature of the offense for which the license was revoked,; the period of time that has elapsed since the revocation,; evidence of rehabilitation,; and character references.
- 6) Licenses that have expired for more than 60 days or expired during a pending investigation or an administrative hearing required reinstatement under subsections (a)(1) through (5).

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- b) Non-Renewal of a Revoked, Suspended or Relinquished License
A license that has been suspended, revoked, relinquished or lapsed for more than 60 days cannot be renewed, nor can the licensee file a new application. The licensee must request reinstatement.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
140.526	Repeal
140.530	Amendment
140.860	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: In compliance with the federal Centers for Medicare and Medicaid Services' rule to limit government providers to no more than cost, this proposed rulemaking provides new methodology to reimburse county-owned or -operated nursing facilities at cost. The cost would be certified as a county expenditure by submission of the facility's cost report, and the facility would receive an interim payment from the Department in the amount that it would receive by applying Minimum Data Set (MDS)-based rates. Federal financial participation (FFP) would be claimed on the higher certified cost, and the Department would then pass through a portion of the FFP to the county.
- 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

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
140.3	Amendment	33 Ill. Reg. 1617; January 30, 2009
140.403	New Section	33 Ill. Reg. 1617; January 30, 2009
140.400	Amendment	33 Ill. Reg. 4468; March 27, 2009
140.425	Amendment	33 Ill. Reg. 5178; April 10, 2009
140.2	Amendment	33 Ill. Reg. 10204; July 17, 2009
140.992	Amendment	33 Ill. Reg. 11174; July 31, 2009

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140.994 Amendment 33 Ill. Reg. 11174; July 31, 2009

- 11) Statement of Statewide Policy Objective: This rulemaking does affect units of local government. It will have an impact on county government entities that own or operate nursing facilities enrolled in the Medical Assistance Program.
- 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 East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

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

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: County-owned or-operated nursing facilities

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- B) Reporting, bookkeeping or other procedures required for compliance:
Preparation, documentation, and submission of facility's cost report.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on Which this Rulemaking was summarized: July 2009

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page 14324:

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- 1) Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
147.150	Amendment
147.200	Amendment
147.205	New Section
147.TABLE A	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 96-0743
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking, which implements PA 96-743, requires the Department to begin paying nursing facilities for ventilator-dependent residents through a system separate from the Minimum Data Set-(MDS-) based reimbursement methodology.

Payment shall be made for each individual resident receiving ventilator services through the Medicaid Management Information System (MMIS). A rate for ventilator services shall be set based on geographic area for all facilities within that area, and shall consist of the \$150 add-on previously used in the MDS methodology plus the average of the ventilator-dependent minutes for each geographic area. The rates are currently adjusted annually for all facilities and quarterly for those facilities that exceed a specified percentage of total variable nursing time for a rate quarter as identified in the existing MDS rules.

This rulemaking also requires the Department to calculate and adjust the nursing component of the nursing facility rate under the Minimum Data Set (MDS) methodology quarterly for all nursing facilities, effective October 1, 2009. Currently, the rates are adjusted annually for all facilities and quarterly for those facilities that exceed a specified percentage of total variable nursing time for a rate quarter as identified in the existing MDS rules.
- 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

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

217/782-1233

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

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

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Nursing homes
 - 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 2009

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page 14350:

POLLUTION CONTROL BOARD

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- 1) Heading of the Part: Definitions and General Provisions
- 2) Code citation: 35 Ill. Adm. Code 211
- 3) Section Number: 211.7150 Proposed Action:
Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 9.1, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of October 1, 2009, proposing amendments in docket R10-7 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendments for 45 days from the date they appear in the Illinois Register, and will hold a public hearing on November 19, 2009, before proceeding to adopt identical-in-substance amendments based on this proposal pursuant to Sections 7.2(b) and 9.1(e) of the Environmental Protection Act [415 ILCS 5/7.2(b) and 9.1(e) (2008)].

The R10-7 proceeding relates to the listings of compounds exempted from the State definition of "volatile organic material" (VOM) or "volatile organic compound" (VOC) in 35 Ill. Adm. Code 211.7150 of the Illinois air pollution control rules. These amendments would update the definition to correspond with amendments to the corresponding definition of VOC in the federal regulations at 40 CFR 51.100(s) that the United States Environmental Protection Agency (USEPA) adopted during the period January 1, 2009 through June 30, 2009. During this period, USEPA amended its definition of VOC as follows:

January 21, 2007 (74 Fed. Reg. 3437)	USEPA added two compounds to the list of chemical species that are exempt from the federal definition of VOC and, accordingly, are exempt from regulation for control of ozone precursors. Those compounds are propylene carbonate (PC) and dimethyl carbonate (DMC).
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A table that appears in the Board's opinion and order of October 1, 2009 in docket R10-7 lists two deviations from the literal text of the federal amendments underlying these amendments, which are corrections and clarifications that the Board made in the base text

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involved. Persons interested in the details of those textual deviations should refer to the October 1, 2009 opinion and order in docket R10-7.

Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e) (2008)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35 (2008)] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency amendments currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 11) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This proposed amendment does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2008)].
- 12) Time, Place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R10-7 and be addressed to:

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

The Board will conduct one public hearing on the proposed amendment because it will ultimately result in submission to the United States Environmental Protection Agency of an amendment to the state implementation plan (SIP). Section 110(a)(2) of the Federal Clean Air Act (42 USC 7410(a)(2) (2006)) requires reasonable notice and hearing before

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a state undertakes an amendment to the SIP. The public hearing will occur at the following time and location:

1:00 p.m., November 19, 2009
Room 11-500
James R. Thompson Center
100 W. Randolph St.
Chicago, IL 60601

The Hearing Officer will set a short post-hearing comment period at hearing that is consistent with completion of amendments before the prescribed due date of January 21, 2010.

Please direct inquiries to the following person and reference docket R10-7:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

Phone: 312/814-6924
E-mail: mccambm@ipcb.state.il.us

Request copies of the Board's opinion and order at 312/814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that use or emit the affected chemicals that are proposed for deletion from the definition of VOM.
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including emissions monitoring, annual reports, and maintenance of operating records.

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- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

- 14) Regulatory agenda on which this rulemaking was summarized: July 2009

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 211
DEFINITIONS AND GENERAL PROVISIONS

SUBPART A: GENERAL PROVISIONS

- Section
211.101 Incorporations by Reference
211.102 Abbreviations and Conversion Factors

SUBPART B: DEFINITIONS

- Section
211.121 Other Definitions
211.122 Definitions (Repealed)
211.130 Accelacota
211.150 Accumulator
211.170 Acid Gases
211.210 Actual Heat Input
211.230 Adhesive
211.240 Adhesion Promoter
211.250 Aeration
211.270 Aerosol Can Filling Line
211.290 Afterburner
211.310 Air Contaminant
211.330 Air Dried Coatings
211.350 Air Oxidation Process
211.370 Air Pollutant
211.390 Air Pollution
211.410 Air Pollution Control Equipment
211.430 Air Suspension Coater/Dryer
211.450 Airless Spray
211.470 Air Assisted Airless Spray
211.474 Alcohol

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211.479	Allowance
211.484	Animal
211.485	Animal Pathological Waste
211.490	Annual Grain Through-Put
211.495	Anti-Glare/Safety Coating
211.510	Application Area
211.530	Architectural Coating
211.550	As Applied
211.560	As-Applied Fountain Solution
211.570	Asphalt
211.590	Asphalt Prime Coat
211.610	Automobile
211.630	Automobile or Light-Duty Truck Assembly Source or Automobile or Light-Duty Truck Manufacturing Plant
211.650	Automobile or Light-Duty Truck Refinishing
211.660	Automotive/Transportation Plastic Parts
211.665	Auxiliary Boiler
211.670	Baked Coatings
211.680	Bakery Oven
211.685	Basecoat/Clearcoat System
211.690	Batch Loading
211.695	Batch Operation
211.696	Batch Process Train
211.710	Bead-Dipping
211.730	Binders
211.740	Brakehorsepower (rated-bhp)
211.750	British Thermal Unit
211.770	Brush or Wipe Coating
211.790	Bulk Gasoline Plant
211.810	Bulk Gasoline Terminal
211.820	Business Machine Plastic Parts
211.830	Can
211.850	Can Coating
211.870	Can Coating Line
211.890	Capture
211.910	Capture Device
211.930	Capture Efficiency
211.950	Capture System
211.953	Carbon Adsorber

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211.955	Cement
211.960	Cement Kiln
211.970	Certified Investigation
211.980	Chemical Manufacturing Process Unit
211.990	Choke Loading
211.995	Circulating Fluidized Bed Combustor
211.1010	Clean Air Act
211.1050	Cleaning and Separating Operation
211.1070	Cleaning Materials
211.1090	Clear Coating
211.1110	Clear Topcoat
211.1120	Clinker
211.1130	Closed Purge System
211.1150	Closed Vent System
211.1170	Coal Refuse
211.1190	Coating
211.1210	Coating Applicator
211.1230	Coating Line
211.1250	Coating Plant
211.1270	Coil Coating
211.1290	Coil Coating Line
211.1310	Cold Cleaning
211.1312	Combined Cycle System
211.1315	Combustion Tuning
211.1316	Combustion Turbine
211.1320	Commence Commercial Operation
211.1324	Commence Operation
211.1328	Common Stack
211.1330	Complete Combustion
211.1350	Component
211.1370	Concrete Curing Compounds
211.1390	Concentrated Nitric Acid Manufacturing Process
211.1410	Condensate
211.1430	Condensable PM-10
211.1435	Container Glass
211.1465	Continuous Automatic Stoking
211.1467	Continuous Coater
211.1470	Continuous Process
211.1490	Control Device

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211.1510	Control Device Efficiency
211.1515	Control Period
211.1520	Conventional Air Spray
211.1530	Conventional Soybean Crushing Source
211.1550	Conveyorized Degreasing
211.1570	Crude Oil
211.1590	Crude Oil Gathering
211.1610	Crushing
211.1630	Custody Transfer
211.1650	Cutback Asphalt
211.1670	Daily-Weighted Average VOM Content
211.1690	Day
211.1710	Degreaser
211.1730	Delivery Vessel
211.1740	Diesel Engine
211.1750	Dip Coating
211.1770	Distillate Fuel Oil
211.1780	Distillation Unit
211.1790	Drum
211.1810	Dry Cleaning Operation or Dry Cleaning Facility
211.1830	Dump-Pit Area
211.1850	Effective Grate Area
211.1870	Effluent Water Separator
211.1875	Elastomeric Materials
211.1880	Electromagnetic Interference/Radio Frequency Interference (EMI/RFI) Shielding Coatings
211.1885	Electronic Component
211.1890	Electrostatic Bell or Disc Spray
211.1900	Electrostatic Prep Coat
211.1910	Electrostatic Spray
211.1920	Emergency or Standby Unit
211.1930	Emission Rate
211.1950	Emission Unit
211.1970	Enamel
211.1990	Enclose
211.2010	End Sealing Compound Coat
211.2030	Enhanced Under-the-Cup Fill
211.2050	Ethanol Blend Gasoline
211.2070	Excess Air

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211.2080	Excess Emissions
211.2090	Excessive Release
211.2110	Existing Grain-Drying Operation (Repealed)
211.2130	Existing Grain-Handling Operation (Repealed)
211.2150	Exterior Base Coat
211.2170	Exterior End Coat
211.2190	External Floating Roof
211.2210	Extreme Performance Coating
211.2230	Fabric Coating
211.2250	Fabric Coating Line
211.2270	Federally Enforceable Limitations and Conditions
211.2285	Feed Mill
211.2290	Fermentation Time
211.2300	Fill
211.2310	Final Repair Coat
211.2330	Firebox
211.2350	Fixed-Roof Tank
211.2355	Flare
211.2357	Flat Glass
211.2360	Flexible Coating
211.2365	Flexible Operation Unit
211.2370	Flexographic Printing
211.2390	Flexographic Printing Line
211.2410	Floating Roof
211.2420	Fossil Fuel
211.2425	Fossil Fuel-Fired
211.2430	Fountain Solution
211.2450	Freeboard Height
211.2470	Fuel Combustion Emission Unit or Fuel Combustion Emission Source
211.2490	Fugitive Particulate Matter
211.2510	Full Operating Flowrate
211.2530	Gas Service
211.2550	Gas/Gas Method
211.2570	Gasoline
211.2590	Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2610	Gel Coat
211.2620	Generator
211.2625	Glass Melting Furnace
211.2630	Gloss Reducers

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211.2650	Grain
211.2670	Grain-Drying Operation
211.2690	Grain-Handling and Conditioning Operation
211.2710	Grain-Handling Operation
211.2730	Green-Tire Spraying
211.2750	Green Tires
211.2770	Gross Heating Value
211.2790	Gross Vehicle Weight Rating
211.2810	Heated Airless Spray
211.2815	Heat Input
211.2820	Heat Input Rate
211.2830	Heatset
211.2850	Heatset Web Offset Lithographic Printing Line
211.2870	Heavy Liquid
211.2890	Heavy Metals
211.2910	Heavy Off-Highway Vehicle Products
211.2930	Heavy Off-Highway Vehicle Products Coating
211.2950	Heavy Off-Highway Vehicle Products Coating Line
211.2970	High Temperature Aluminum Coating
211.2990	High Volume Low Pressure (HVLP) Spray
211.3010	Hood
211.3030	Hot Well
211.3050	Housekeeping Practices
211.3070	Incinerator
211.3090	Indirect Heat Transfer
211.3100	Industrial Boiler
211.3110	Ink
211.3130	In-Process Tank
211.3150	In-Situ Sampling Systems
211.3170	Interior Body Spray Coat
211.3190	Internal-Floating Roof
211.3210	Internal Transferring Area
211.3230	Lacquers
211.3250	Large Appliance
211.3270	Large Appliance Coating
211.3290	Large Appliance Coating Line
211.3300	Lean-Burn Engine
211.3310	Light Liquid
211.3330	Light-Duty Truck

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211.3350	Light Oil
211.3355	Lime Kiln
211.3370	Liquid/Gas Method
211.3390	Liquid-Mounted Seal
211.3410	Liquid Service
211.3430	Liquids Dripping
211.3450	Lithographic Printing Line
211.3470	Load-Out Area
211.3475	Load Shaving Unit
211.3480	Loading Event
211.3483	Long Dry Kiln
211.3485	Long Wet Kiln
211.3487	Low-NO _x Burner
211.3490	Low Solvent Coating
211.3500	Lubricating Oil
211.3510	Magnet Wire
211.3530	Magnet Wire Coating
211.3550	Magnet Wire Coating Line
211.3570	Major Dump Pit
211.3590	Major Metropolitan Area (MMA)
211.3610	Major Population Area (MPA)
211.3620	Manually Operated Equipment
211.3630	Manufacturing Process
211.3650	Marine Terminal
211.3660	Marine Vessel
211.3670	Material Recovery Section
211.3690	Maximum Theoretical Emissions
211.3695	Maximum True Vapor Pressure
211.3710	Metal Furniture
211.3730	Metal Furniture Coating
211.3750	Metal Furniture Coating Line
211.3770	Metallic Shoe-Type Seal
211.3780	Mid-Kiln Firing
211.3790	Miscellaneous Fabricated Product Manufacturing Process
211.3810	Miscellaneous Formulation Manufacturing Process
211.3830	Miscellaneous Metal Parts and Products
211.3850	Miscellaneous Metal Parts and Products Coating
211.3870	Miscellaneous Metal Parts or Products Coating Line
211.3890	Miscellaneous Organic Chemical Manufacturing Process

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211.3910	Mixing Operation
211.3915	Mobile Equipment
211.3930	Monitor
211.3950	Monomer
211.3960	Motor Vehicles
211.3965	Motor Vehicle Refinishing
211.3970	Multiple Package Coating
211.3980	Nameplate Capacity
211.3990	New Grain-Drying Operation (Repealed)
211.4010	New Grain-Handling Operation (Repealed)
211.4030	No Detectable Volatile Organic Material Emissions
211.4050	Non-Contact Process Water Cooling Tower
211.4055	Non-Flexible Coating
211.4065	Non-Heatset
211.4067	NO _x Trading Program
211.4070	Offset
211.4090	One Hundred Percent Acid
211.4110	One-Turn Storage Space
211.4130	Opacity
211.4150	Opaque Stains
211.4170	Open Top Vapor Degreasing
211.4190	Open-Ended Valve
211.4210	Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility
211.4230	Organic Compound
211.4250	Organic Material and Organic Materials
211.4260	Organic Solvent
211.4270	Organic Vapor
211.4280	Other Glass
211.4290	Oven
211.4310	Overall Control
211.4330	Overvarnish
211.4350	Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility
211.4370	Owner or Operator
211.4390	Packaging Rotogravure Printing
211.4410	Packaging Rotogravure Printing Line
211.4430	Pail
211.4450	Paint Manufacturing Source or Paint Manufacturing Plant

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211.4470	Paper Coating
211.4490	Paper Coating Line
211.4510	Particulate Matter
211.4530	Parts Per Million (Volume) or PPM (Vol)
211.4550	Person
211.4590	Petroleum
211.4610	Petroleum Liquid
211.4630	Petroleum Refinery
211.4650	Pharmaceutical
211.4670	Pharmaceutical Coating Operation
211.4690	Photochemically Reactive Material
211.4710	Pigmented Coatings
211.4730	Plant
211.4740	Plastic Part
211.4750	Plasticizers
211.4770	PM-10
211.4790	Pneumatic Rubber Tire Manufacture
211.4810	Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.4830	Polyester Resin Material(s)
211.4850	Polyester Resin Products Manufacturing Process
211.4870	Polystyrene Plant
211.4890	Polystyrene Resin
211.4910	Portable Grain-Handling Equipment
211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4960	Potential Electrical Output Capacity
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5015	Preheater Kiln
211.5020	Preheater/Precalciner Kiln
211.5030	Pressure Release
211.5050	Pressure Tank
211.5060	Pressure/Vacuum Relief Valve
211.5061	Pretreatment Wash Primer
211.5065	Primary Product
211.5070	Prime Coat
211.5080	Primer Sealer
211.5090	Primer Surfacer Coat

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211.5110	Primer Surfacer Operation
211.5130	Primers
211.5150	Printing
211.5170	Printing Line
211.5185	Process Emission Source
211.5190	Process Emission Unit
211.5195	Process Heater
211.5210	Process Unit
211.5230	Process Unit Shutdown
211.5245	Process Vent
211.5250	Process Weight Rate
211.5270	Production Equipment Exhaust System
211.5310	Publication Rotogravure Printing Line
211.5330	Purged Process Fluid
211.5340	Rated Heat Input Capacity
211.5350	Reactor
211.5370	Reasonably Available Control Technology (RACT)
211.5390	Reclamation System
211.5410	Refiner
211.5430	Refinery Fuel Gas
211.5450	Refinery Fuel Gas System
211.5470	Refinery Unit or Refinery Process Unit
211.5480	Reflective Argent Coating
211.5490	Refrigerated Condenser
211.5500	Regulated Air Pollutant
211.5510	Reid Vapor Pressure
211.5530	Repair
211.5550	Repair Coat
211.5570	Repaired
211.5580	Repowering
211.5590	Residual Fuel Oil
211.5600	Resist Coat
211.5610	Restricted Area
211.5630	Retail Outlet
211.5640	Rich-Burn Engine
211.5650	Ringelmann Chart
211.5670	Roadway
211.5690	Roll Coater
211.5710	Roll Coating

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211.5730	Roll Printer
211.5750	Roll Printing
211.5770	Rotogravure Printing
211.5790	Rotogravure Printing Line
211.5810	Safety Relief Valve
211.5830	Sandblasting
211.5850	Sanding Sealers
211.5870	Screening
211.5880	Screen Printing on Paper
211.5890	Sealer
211.5910	Semi-Transparent Stains
211.5930	Sensor
211.5950	Set of Safety Relief Valves
211.5970	Sheet Basecoat
211.5980	Sheet-Fed
211.5990	Shotblasting
211.6010	Side-Seam Spray Coat
211.6025	Single Unit Operation
211.6030	Smoke
211.6050	Smokeless Flare
211.6060	Soft Coat
211.6070	Solvent
211.6090	Solvent Cleaning
211.6110	Solvent Recovery System
211.6130	Source
211.6140	Specialty Coatings
211.6145	Specialty Coatings for Motor Vehicles
211.6150	Specialty High Gloss Catalyzed Coating
211.6170	Specialty Leather
211.6190	Specialty Soybean Crushing Source
211.6210	Splash Loading
211.6230	Stack
211.6250	Stain Coating
211.6270	Standard Conditions
211.6290	Standard Cubic Foot (scf)
211.6310	Start-Up
211.6330	Stationary Emission Source
211.6350	Stationary Emission Unit
211.6355	Stationary Gas Turbine

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211.6360	Stationary Reciprocating Internal Combustion Engine
211.6370	Stationary Source
211.6390	Stationary Storage Tank
211.6400	Stencil Coat
211.6410	Storage Tank or Storage Vessel
211.6420	Strippable Spray Booth Coating
211.6430	Styrene Devolatilizer Unit
211.6450	Styrene Recovery Unit
211.6470	Submerged Loading Pipe
211.6490	Substrate
211.6510	Sulfuric Acid Mist
211.6530	Surface Condenser
211.6540	Surface Preparation Materials
211.6550	Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570	Tablet Coating Operation
211.6580	Texture Coat
211.6590	Thirty-Day Rolling Average
211.6610	Three-Piece Can
211.6620	Three or Four Stage Coating System
211.6630	Through-the-Valve Fill
211.6650	Tooling Resin
211.6670	Topcoat
211.6690	Topcoat Operation
211.6695	Topcoat System
211.6710	Touch-Up
211.6720	Touch-Up Coating
211.6730	Transfer Efficiency
211.6750	Tread End Cementing
211.6770	True Vapor Pressure
211.6790	Turnaround
211.6810	Two-Piece Can
211.6830	Under-the-Cup Fill
211.6850	Undertread Cementing
211.6860	Uniform Finish Blender
211.6870	Unregulated Safety Relief Valve
211.6880	Vacuum Metallizing
211.6890	Vacuum Producing System
211.6910	Vacuum Service
211.6930	Valves Not Externally Regulated

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211.6950	Vapor Balance System
211.6970	Vapor Collection System
211.6990	Vapor Control System
211.7010	Vapor-Mounted Primary Seal
211.7030	Vapor Recovery System
211.7050	Vapor-Suppressed Polyester Resin
211.7070	Vinyl Coating
211.7090	Vinyl Coating Line
211.7110	Volatile Organic Liquid (VOL)
211.7130	Volatile Organic Material Content (VOMC)
211.7150	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.7170	Volatile Petroleum Liquid
211.7190	Wash Coat
211.7200	Washoff Operations
211.7210	Wastewater (Oil/Water) Separator
211.7230	Weak Nitric Acid Manufacturing Process
211.7250	Web
211.7270	Wholesale Purchase – Consumer
211.7290	Wood Furniture
211.7310	Wood Furniture Coating
211.7330	Wood Furniture Coating Line
211.7350	Woodworking
211.7400	Yeast Percentage

211.APPENDIX A Rule into Section Table

211.APPENDIX B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, 27 and 28.5].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended

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in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 Ill. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg. 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 Ill. Reg. 7590, effective May 22, 1996; amended in R96-16 at 21 Ill. Reg. 2641, effective February 7, 1997; amended in R97-17 at 21 Ill. Reg. 6489, effective May 16, 1997; amended in R97-24 at 21 Ill. Reg. 7695, effective June 9, 1997; amended in R96-17 at 21 Ill. Reg. 7856, effective June 17, 1997; amended in R97-31 at 22 Ill. Reg. 3497, effective February 2, 1998; amended in R98-17 at 22 Ill. Reg. 11405, effective June 22, 1998; amended in R01-9 at 25 Ill. Reg. 108, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4582, effective March 15, 2001; amended in R01-17 at 25 Ill. Reg. 5900, effective April 17, 2001; amended in R05-16 at 29 Ill. Reg. 8181, effective May 23, 2005; amended in R05-11 at 29 Ill. Reg. 8892, effective June 13, 2005; amended in R04-12/20 at 30 Ill. Reg. 9654, effective May 15, 2006; amended in R07-18 at 31 Ill. Reg. 14254, effective September 25, 2007; amended in R08-6 at 32 Ill. Reg. 1387, effective January 16, 2008; amended in R07-19 at 33 Ill. Reg. 11982, effective August 6, 2009; amended in R08-19 at 33 Ill. Reg. 13326, effective August 31, 2009; amended in R10-7 at 34 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS

Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)

"Volatile organic material" (also "VOM") or "volatile organic compound" (also "VOC") means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

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- a) This definition of VOM includes any organic compound that participates in atmospheric photochemical reactions, other than the compounds listed in this subsection (a). USEPA has determined that the compounds listed in this subsection (a) have negligible photochemical reactivity. USEPA has excluded the listed negligibly-reactive compounds from the definition of VOM for purposes of VOM limitations or VOM content requirements. However, USEPA has required that certain of these compounds be considered VOM for purposes of recordkeeping, emissions reporting, and inventory requirements, as described in subsection (e) of this Section.

Acetone (2-propanone or dimethylketone)
tertiary-Butyl acetate
1-Chloro-1,1-difluoroethane (HCFC-142b)
Chlorodifluoromethane (CFC-22)
1-Chloro-1-fluoroethane (HCFC-151a)
2-Chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
Chlorofluoromethane (HCFC-31)
Chloropentafluoroethane (CFC-115)
1,1,1,2,2,3,4,5,5,5-Decafluoro-3-methoxy-4-trifluoromethyl-pentane
(HFE-7300, L-14787, or $C_2F_5CF(OCH_3)CF(CF_3)_2$)
1,1,1,2,3,4,4,5,5,5-Decafluoropentane (HFC 43-10mee)
Dichlorodifluoromethane (CFC-12)
1,1-Dichloro-1-fluoroethane (HCFC-141b)
3,3-Dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)
1,3-Dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)
1,2-Dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
1,2-Dichloro-1,1,2-trifluoroethane (HCFC-123a)
1,1-Difluoroethane (HFC-152a)
Difluoromethane (HFC-32)
2-(Difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane
($(CF_3)_2CFCF_2OCH_3$)
Dimethyl carbonate
Ethane
2-(Ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane
($(CF_3)_2CFCF_2OC_2H_5$)
Ethylfluoride (HFC-161)
1-Ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$ or HFE-7200)
3-Ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane
(HFE-7500)

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1,1,1,2,2,3,3-Heptafluoro-3-methoxypropane (n-C₃F₇OCH₃ or HFE-7000)
1,1,1,2,3,3,3-Heptafluoropropane (HFC-227ea)
1,1,1,2,3,3-Hexafluoropropane (HFC-236ea)
1,1,1,3,3,3-Hexafluoropropane (HFC-236fa)
Methane
Methyl acetate
Methylene chloride (dichloromethane)
Methyl formate (HCOOCH₃)
1,1,1,2,2,3,3,4,4-Nonafluoro-4-methoxybutane (C₄F₉OCH₃ or HFE-7100)
Parachlorobenzotrifluoride (PCBTF)
1,1,1,3,3-Pentafluorobutane (HFC-365mfc)
Pentafluoroethane (HFC-125)
1,1,2,2,3-Pentafluoropropane (HFC-245ca)
1,1,2,3,3-Pentafluoropropane (HFC-245ea)
1,1,1,2,3-Pentafluoropropane (HFC-245eb)
1,1,1,3,3-Pentafluoropropane (HFC-245fa)
Perchloroethylene (tetrachloroethylene)
Perfluorocarbon compounds that fall into the following classes:
 Cyclic, branched, or linear, completely fluorinated alkanes
 Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations
 Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations
 Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine
[Propylene carbonate \(4-methyl-1,3-dioxolan-2-one\)](#)
Siloxanes: cyclic, branched, or linear completely-methylated
1,1,2,2-Tetrafluoroethane (HFC-134)
1,1,1,2-Tetrafluoroethane (HFC-134a)
1,1,1-Trichloroethane (methyl chloroform)
Trichlorofluoromethane (CFC-11)
1,1,2-Trichloro-1,2,2-trifluoroethane (CFC-113)
1,1,1-Trifluoro-2,2-dichloroethane (HCFC-123)
1,1,1-Trifluoroethane (HFC-143a)
Trifluoromethane (HFC-23)

- b) For purposes of determining VOM emissions and compliance with emissions limits, VOM will be measured by the test methods in the approved implementation plan or 40 CFR 60, Appendix A, incorporated by reference at 35

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Ill. Adm. Code 215.105, 218.112, and 219.112, as applicable, or by source-specific test methods that have been established pursuant to a permit issued under a program approved or promulgated under Title V of the Clean Air Act; under 40 CFR 51, Subpart I or Appendix S, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112; or under 40 CFR 52.21, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOM if the amount of such compounds is accurately quantified and the exclusion is approved by the Agency.

- c) As a precondition to excluding these negligibly-reactive compounds as VOM, or at any time thereafter, the Agency may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Agency, the amount of negligibly-reactive compounds in the source's emissions.
- d) The USEPA will not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the test methods in subsection (b) above.
- e) The following compound is VOM for the purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements that apply to VOM, and it must be uniquely identified in emission reports, but it is not VOM for the purposes of VOM emissions limitations or VOM content requirements: t-butyl acetate.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

OFFICE OF THE SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: General Rules, Definitions
- 2) Code Citation: 92 Ill. Adm. Code 1000
- 3) Section Number: 1000.70 Proposed Action: Amendment
- 4) Statutory Authority: 625 ILCS 5/2-115
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking seeks to conform with regulations of state legislative enactments and technical changes.
- 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 Objective: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Stephan Roth, Director
Office of the Secretary of State
Department of Personnel
Room 197 Howlett Building
Springfield, Illinois 62756

217/782-1750

All comments must be in writing.

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- 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 most recent regulatory agendas because the Department did not anticipate this rulemaking at the time the agendas were filed.

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 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 Chapters 11, 3 and 3 of the Illinois Vehicle Code [625 ILCS 5/Ch. 11, 2 and 3] 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. _____, effective _____.

Section 1000.70 Department of Police

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NOTICE OF PROPOSED AMENDMENT

- a) The investigators authorized pursuant to Section 2-115 of the Illinois Vehicle Code [625 ILCS 5/2-115] shall be appointed by the Secretary and organized into the Department of Police.
- b) The Department of Police, which is headquartered in Springfield, Illinois, shall have District headquarters throughout Illinois to enable the Department to best distribute its supervisory responsibilities and work load.
- c) The employees of the Department of Police shall be subject to the Secretary of State Merit Employment Code [15 ILCS 310]; the Office of the Secretary of State's rules entitled Department of Personnel (80 Ill. Adm. Code 420) and the Department of Police General Orders. Where there is conflict between the policies of the Office and the General Orders of Police, the Office policies shall prevail. ~~All employees and applicants of the Department of Police shall be subject to a background check conducted by the Department of Police and an interview conducted by the Department of Police to determine if the applicant is qualified to perform the job duties.~~
- d) Sworn personnel
 - 1) Sworn personnel shall mean the peace officers within the Department of Police.
 - 2) The grades of sworn personnel, from lowest to highest, shall be Investigator Trainee, Investigator, Investigator Sergeant, Investigator Lieutenant, and Investigator Commander. Position descriptions for these employees shall be established by the Department of Personnel in accordance with Section 10a of the Secretary of State Merit Employment Code and 80 Ill. Adm. Code 420.210.
 - 3) New sworn personnel shall be hired in accordance with Section 10b of the Secretary of State Merit Employment Code and shall be required to successfully complete certain terms and conditions under the Secretary of State Merit Employment Code that include, but are not limited to, the following: Application and Testing Procedures for Investigators and Investigator Trainees. ~~Any applicant for the position of Investigator or Investigator Trainee must complete or pass successfully each of the following application procedures before proceeding to the next procedure.~~

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- A) ~~The filing of the standard personnel form application.~~ B) An examination for Investigators or Investigator Trainees as prescribed by the Director of Personnel, Office of the Secretary of State. A written entrance examination developed for police officers with general testing areas including, but not limited to, mathematics, logic, reading comprehension, scoring the highest score among the potential applicants.
- BE) A physical ability test, consistent with the physical ability standards set forth by the Illinois Law Enforcement Training and Standards Board (20 Ill. Adm. Code 1720.20.Appendix A) prior to the entrance into any of the Illinois certified basic police academies.
- CE) A background investigation conducted by the Department of Police to determine if the applicant has any criminal convictions and to verify that all information contained in the applicant's application is true and accurate.
- DE) A medical and a psychological examination using standard criteria.
- F) ~~An oral interview conducted by a panel of sworn officers of the Department in the grade of at least Investigator Sergeant to determine the applicant's qualifications and suitability for employment in the Department of Police.~~
- 4) ~~Veterans preference points in accordance with 80 Ill. Adm. Code 420.300 will be given to persons who are honorably discharged from any armed force of the United States or any state National Guard.~~
- 5) ~~Each person newly hired into the Department as an Investigator Trainee shall have a 9 month training period (80 Ill. Adm. Code 420.320). Upon successful completion of the training period, that person shall be promoted to an Investigator position and shall serve a 3 month probationary period (80 Ill. Adm. Code 420.360).~~
- 6) ~~Applicants may submit their applications for consideration whenever a vacancy occurs.~~

OFFICE OF THE SECRETARY OF STATE

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- 7) ~~Each person newly hired into the Department as an Investigator shall have a 6 months probationary period as defined in 80 Ill. Adm. Code 420.130.~~
- 4)8) Application and Testing Procedures for Investigator Sergeants. Any applicant for the position of Investigator Sergeant must complete or successfully pass the following application procedure:
- A) The filing of the standard personnel application form with the Department of Personnel with a copy to the Department of Police.
 - B) ~~An~~ A written examination for Investigator Sergeant as prescribed by the Director of Personnel, Office of the Secretary of State ~~Sergeants~~.
 - C) An oral interview conducted by a panel of sworn officers of the Department in the grade of at least Investigator Sergeant, appointed by the Director to determine the applicant's qualifications and suitability for promotion to the rank of Investigator Sergeant.
- e) Miscellaneous provisions pertaining to the Department of Police
- 1) The Department of Police shall collect a storage fee in the amount of \$5.00 per day from any person or entity owning a vehicle which is stored on Secretary of State property for any reason. ~~Fees~~ Such fees shall be deposited in the Road Fund.
 - 2) The Department of Police, to implement Section 3-308 of the Illinois Vehicle Code, shall operate inspection stations at various locations throughout Illinois as the workload of inspecting rebuilt and salvage vehicles requires.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Indian Child Welfare Services
- 2) Code Citation: 89 Ill. Adm. Code 307
- 3) Section Number: 307.10 Adopted Action:
Amended
- 4) Statutory Authority: 25 USC 1901; 20 ILCS 505/5
- 5) Effective Date of Rulemaking: October 1, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted amendment, including 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: April 24, 2009; 33 Ill. Reg. 5990
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The Department made no changes other than grammatical changes suggested by JCAR prior to initial publication.
- 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 amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This rulemaking implements provisions of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351). The legislation requires states with federally-recognized Indian tribes to negotiate in good faith with tribes, tribal organizations or consortia toward developing an agreement with the Department to administer all or part of a program under Title IV-E.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65-D
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TTY: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us
Facsimile: 217/557-0692

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 307

INDIAN CHILD WELFARE SERVICES

Section

307.10	Purpose
307.15	Definitions
307.20	Identification of Indian Children
307.25	Notification of Proceedings
307.30	Transfer of Jurisdiction
307.35	Placement of an Indian Child
307.40	Retaining Custody of an Indian Child
307.45	Terminating Parental Rights

AUTHORITY: Implementing the Indian Child Welfare Act (25 USC 1901 et seq.) and authorized by Section 4 of the Department of Children and Family Services Act [20 ILCS 505/4].

SOURCE: Adopted and codified at 5 Ill. Reg. 8645, effective August 19, 1981; old Part repealed at 31 Ill. Reg. 4328 and new Part adopted at 31 Ill. Reg. 4330, effective February 28, 2007; amended at 33 Ill. Reg. 14302, effective October 1, 2009.

Section 307.10 Purpose

- a) The purpose of the Indian Child Welfare Act is to promote the identity of Indian children and their connection or affiliation with their Indian tribes. The Department of Children and Family Services recognizes that Indian children are central in the maintenance of Indian tribal culture, traditions and values. Therefore, the Department shall, in conjunction with Indian communities, organizations and agencies, provide a method of early identification of Indian children and their families in order to provide services that assure all the additional protections afforded by the Indian Child Welfare Act.
- b) The Department shall negotiate in good faith with any federally recognized Indian tribe, tribal organization or tribal consortium:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- 1) that requests to develop an agreement with the Department to administer all or a part of the program under Title IV-E the Social Security Act (42 USC 670 et seq.) on behalf of Indian children who are under authority of the tribe, organization or consortium, including foster care maintenance payments on behalf of children who are placed in Department or tribally licensed foster family homes, adoption assistance payments, and tribal access to resources for administration, training and data collection under Title IV-E (see 42 USC 671(a)(32)); and
- 2) that does not receive an allotment under the Chafee Foster Care Independence Program (CFCIP) or Education and Training Voucher (ETV) directly from the Secretary of the U.S. Department of Health and Human Services for a fiscal year and that requests to:
 - A) develop an agreement with the Department to administer, supervise or oversee the CFCIP or ETV program with respect to Indian children who are eligible for those programs and who are under the authority of the tribe, organization or consortium; and
 - B) receive from the Department an appropriate portion of the Department's allotment for the cost of administration, supervision or oversight (see 42 USC 677(b)(3)(G)).

(Source: Amended at 33 Ill. Reg. 14302, effective October 1, 2009)

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Bait Car Procedures
- 2) Code Citation: 20 Ill. Adm. Code 1297
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1297.10	New Section
1297.20	New Section
1297.30	New Section
1297.40	New Section
- 4) Statutory Authority: Implementing Section 14-3(n) of the Criminal Code [720 ILCS 5/14-3(n)] and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15]
- 5) Effective Date of Rules: October 5, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 33 Ill. Reg. 8900; June 26, 2009
- 10) Has JCAR issued a Statement of Objection to these rules? 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 issued by JCAR.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The purpose of this Part is to delineate regulations concerning the use of devices in the recording of transmissions from a microphone placed by a person under the authority of a law enforcement agency inside a

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bait car surveillance vehicle and to adopt measures regarding the retention of any such recorded evidence. These regulations shall apply exclusively to bait cars as defined in Section 14-1(f) of the Code.

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

Mr. John M. Hosteny
Interim Chief Legal Counsel
Illinois State Police
801 South 7th Street, Suite 1000-S
Post Office Box 19461
Springfield, Illinois 62794-9461

217/782-7658

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

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICEPART 1297
BAIT CAR PROCEDURES

SUBPART A: PROMULGATION

Section	
1297.10	Purpose
1297.20	Definitions

SUBPART B: OPERATIONS

1297.30	Interception and Recording Standards
1297.40	Specifications for Equipment

AUTHORITY: Implementing Section 14-3(n) of the Criminal Code [720 ILCS 5/14-3(n)] and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15].

SOURCE: Adopted at 33 Ill. Reg. 14306, effective October 5, 2009.

SUBPART A: PROMULGATION

Section 1297.10 Purpose

The purpose of this Part is to delineate regulations concerning the use of devices in the recording of transmissions from a microphone placed by a person under the authority of a law enforcement agency inside a bait car surveillance vehicle and to adopt measures regarding the retention of any such recorded evidence. These regulations shall apply exclusively to bait cars as defined in Section 14-1(f) of the Code.

Section 1297.20 Definitions

Unless specified otherwise, all terms shall have the meaning set forth in Section 14-1 of the Criminal Code. For purpose of this Part, the following additional definitions apply:

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"Article 14" means Article 14 of the Criminal Code [720 ILCS 5/Art. 14] (Eavesdropping).

"Code" or "Criminal Code" means the Criminal Code of 1961 [720 ILCS 5].

"Inside a bait car" means inside of the vehicle.

"Inventoried" means retained under the policies and procedures of the investigating law enforcement agency conducting the interception or recording; or, if no policy or procedure exists, the policies and procedures established by the office of the sheriff of the county in which the interception or recording occurred.

SUBPART B: OPERATIONS

Section 1297.30 Interception and Recording Standards

- a) Any and all recordings made pursuant to this Section shall be protected from editing or other alteration. The first recording from each device used shall be designated as the "original" for inventory and reporting purposes.
- b) Any and all original recordings shall be inventoried in accordance with the guidelines of the appropriate law enforcement agency.

Section 1297.40 Specifications for Equipment

- a) Based on the operating specifications of the recording equipment, all recorded conversations will be saved to virgin blank media and protected from future additions, editing or alterations.
- b) The materials and equipment used for recording conversations pursuant to Section 14-3(n) of the Code shall be of a type and quality sufficient to satisfy the requirements of Article 14 and ensure adequate collection and preservation of evidence.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Services Delivered by the Department of Children and Family Services
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3) Section Number: 302.410 Emergency Action: New
- 4) Statutory Authority: Children and Family Services Act of 1963 [20 ILCS 505]
- 5) Effective Date of Amendments: October 1, 2009
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment will expire at the end of the 150 days or upon adoption of permanent rules, whichever comes first.
- 7) Date filed with the Index Department: September 29, 2009
- 8) A copy of the adopted 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: The Subsidized Guardianship program that went into effect in 1997 expires on September 30, 2009. After that date, the Department will no longer be able to offer Subsidized Guardianship as a permanency option for children in care. In order to be able to continue to offer subsidized Guardianship to families, the Department must have the new program in place by October 1, 2009. The Department had been unable to proceed until receiving specific eligibility requirements for this rulemaking from the U.S. Department of Health and Human Services Children's Bureau. The required information was received by the Department on August 25, 2009.
- 10) A Complete Description of the Subjects and Issues Involved: The Department is implementing provisions of Public Law 110-351 that allows the State to enter into guardianship agreements to provide assistance payments to grandparents and other relatives who have assumed the legal guardianship of children for whom they have cared for as licensed foster parents and for whom they have committed to care for on a permanent basis.
- 11) Are there any other amendments pending to this Part? No

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- 12) Statement of Statewide Policy Objectives: This amendment does not create or expand a State mandate.
- 13) Information and questions regarding this amendment shall be directed to:

Jeff E. Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TDD: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 302

SERVICES DELIVERED BY THE
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBPART A: GENERAL PROVISIONS

Section	Purpose
302.10	Purpose
302.20	Definitions
302.30	Introduction
302.40	Department Service Goals
302.50	Functions in Support of Services

SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT (RECODIFIED)

Section	Purpose
302.100	Reporting Child Abuse or Neglect to the Department (Recodified)
302.110	Content of Child Abuse or Neglect Reports (Recodified)
302.120	Transmittal of Child Abuse or Neglect Reports (Recodified)
302.130	Special Types of Reports (Recodified)
302.140	Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)
302.150	Delegation of the Investigation (Recodified)
302.160	The Investigative Process (Recodified)
302.170	Taking Children Into Temporary Protective Custody (Recodified)
302.180	Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)
302.190	Referral for Other Services (Recodified)

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section	Purpose
302.300	Adoptive Placement Services (Repealed)
302.305	Adoption Listing Service for Hard-to-Place Children or Children with Disabilities for Whom the Department is Not Legally Responsible

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302.310	Adoption Assistance
302.311	Nonrecurring Adoption Expenses (Repealed)
302.315	Adoption Registry (Repealed)
302.320	Counseling or Casework Services
302.330	Day Care Services
302.340	Emergency Caretaker Services
302.350	Family Planning Services
302.360	Health Care Services
302.365	Mental Health Services (Repealed)
302.370	Homemaker Services
302.380	Information and Referral Services
302.390	Behavioral Health Services
302.400	Successor Guardianship (Repealed)
302.405	Subsidized Guardianship Program
302.410	Subsidized Guardianship Program (KinGap)

[EMERGENCY](#)

SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section

302.500	Purpose
302.510	Implementation of the Family Preservation Act
302.520	Types of Intensive Family Preservation Services
302.530	Phase In Plan for Statewide Family Preservation Services
302.540	Time Frames

302.APPENDIX A Acknowledgement of Mandated Reporter Status (Recodified)

302.APPENDIX B Calculating the Amount of Adoption Assistance (Repealed)

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June

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14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15, 1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1033, effective January 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. 10912, effective July 29, 1997; amended at 22 Ill. Reg. 7140, effective April 13, 1998; emergency amendment at 22 Ill. Reg. 7289, effective April 13, 1998, for a maximum of 150 days; emergency expired September 10, 1998; amended at 22 Ill. Reg. 8803, effective May 15, 1998; amended at 22 Ill. Reg. 21314, effective December 1, 1998; emergency amendment at 25 Ill. Reg. 4292, effective March 15, 2001, for a maximum of 150 days; emergency expired August 11, 2001; amended at 25 Ill. Reg. 11821, effective August 31, 2001; amended at 25 Ill. Reg. 16243, effective December 15, 2001; amended at 26 Ill. Reg. 11747, effective August 1, 2002; amended at 26 Ill. Reg. 16434, effective October 22, 2002; amended at 28 Ill. Reg. 2155, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 10405, effective July 8, 2004, for a maximum of 150 days; emergency expired December 4, 2004; amended at 29 Ill. Reg. 20354, effective November 30, 2005; amended at 30 Ill. Reg. 2323, effective February 2, 2006; amended at 32 Ill. Reg. 11611, effective July 10, 2008; emergency amendment at 33 Ill. Reg. 14310, effective October 1, 2009, for a maximum of 150 days.

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section 302.410 Subsidized Guardianship (KinGap)
EMERGENCY

a) General Provisions

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The subsidized guardianship program (KinGap) implements provisions of Public Law 110-351 that allow the State to enter into guardianship agreements to provide assistance payments to grandparents and other relatives who have assumed the legal guardianship of children for whom they have cared for as a licensed foster parent and for whom they have committed to care for on a permanent basis. The program offers a subsidized private guardianship arrangement for children for whom the permanency goals of return home and adoption have been ruled out. Guardianship is governed by the Illinois Probate Act [755 ILCS 5] and the Illinois Juvenile Court Act [705 ILCS 405]. A licensed relative foster parent caring for a child determined to be eligible for the subsidized guardianship program shall be made aware of the availability of subsidized guardianship and the types of assistance available. The subsidized guardianship agreement must be signed prior to the transfer of guardianship.

b) Subsidized Guardianship Agreement

The type, amount and duration of subsidized guardianship shall be agreed to in writing by the Department and the subsidized guardian prior to the transfer of guardianship and shall be set forth in the subsidized guardianship agreement, which shall be binding on the parties to the agreement. The agreement shall also stipulate that it (the agreement) shall remain in effect regardless of the state where the subsidized guardian resides currently or in the future and shall contain provisions for the protection of the interests of the child in cases in which the subsidized guardian and child move to another state while the agreement is in effect. The amounts of ongoing subsidized guardianship payments are subject to change based on changes in State or federal law regarding adoption assistance payments. Subsidized guardians may refuse any or all payments offered by the Department. The child for whom guardianship is transferred and for whom the guardian is receiving a subsidy shall receive only those services and/or payments specified in the subsidized guardianship agreement.

c) Eligibility Criteria

1) For a child to qualify for subsidized guardianship under KinGap, the following criteria must be met:

A) the child must have been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare and the best interest of the child; and

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- B) the child must be eligible for foster care maintenance payments while residing for at least 6 consecutive months in the home of a licensed prospective relative guardian immediately prior to the establishment of the guardianship; and
 - C) the prospective relative guardian must have been a licensed foster parent for at least the consecutive 6 month period that the child has been in their home immediately prior to the establishment of the guardianship; and
 - D) being returned home or adopted are not appropriate permanency options for the child; and
 - E) the child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and
 - F) with respect to a child who has attained 14 years of age, the child has been consulted and the child has agreed to the guardianship arrangement;
- 2) Children who meet the following criteria, outlined in this subsection (c)(2), also qualify for subsidized guardianship under KinGap:
- A) the child is a sibling of an eligible child who is placed with the same relative under a kinship guardianship agreement, and DCFS and the relative guardian agree that the placement is appropriate. Siblings of an eligible child under subsection (c)(2)(B) are not eligible for the sibling exception; or
 - B) the child is 14 years of age or older and has lived with a licensed non-relative for at least the 6 consecutive month period prior to the establishment of the guardianship and meets the following:
 - i) the child was removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare and best interest of the

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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child; and

- ii) the child was eligible for foster care maintenance payments while residing for at least 6 consecutive months in the licensed non-relative home immediately prior to establishing guardianship; and
- iii) the prospective guardian has been a licensed foster parent for at least the consecutive 6 month period immediately prior to the establishment of the guardianship; and
- iv) being returned home or adopted are not appropriate permanency options for the child; and
- v) the child demonstrates a strong attachment to the prospective guardian and the prospective guardian has a strong commitment to caring permanently for the child; and
- vi) the child has been consulted and has agreed to the guardianship arrangement.

d) Determination Whether Subsidized Guardianship under the KinGap Program is in the Best Interests of the Child

- 1) Prior to approving a subsidized guardianship arrangement for a child, the Department shall determine whether subsidized guardianship is in the best interests of the child. In making this determination, the Department shall consider all relevant factors, including but not limited to:
 - A) the wishes of the child's prospective subsidized guardian and their demonstrated ability to provide care that meets the special needs of the child, if any;
 - B) the wishes of the child under the age of 14 or the consent of the child, if over age 14;
 - C) the interaction and interrelationship between the child and the prospective subsidized guardian;

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- D) the child's adjustment to the present home, school and community;
 - E) the child's need for stability and continuity or relationship with the prospective subsidized guardian; and
 - F) the mental and physical health of all individuals involved.
- 2) The Department shall ensure that the subsidized guardianship arrangement is a safe and suitable placement by means of a safety check, which shall include a CANTS/SACWIS and LEADS check.
- e) Types of Assistance
The types of assistance that a family may apply for include:
- 1) Non-recurring Expenses
Payment for non-recurring expenses for reasonable and necessary miscellaneous costs, and legal fees related to subsidy review, that are directly related to the transfer of guardianship, subject to the maximum set by the Department of up to \$500 per child.
 - 2) Ongoing Monthly Payments
 - A) An ongoing monthly payment to be determined through the discussion and negotiation process between the prospective guardian and the Department based on the needs of the child and the circumstances of the family. This payment should combine with the guardian's resources to cover the ordinary and special needs of the child. This payment shall not exceed the amount the child receives in his or her current foster family home upon transfer of guardianship. The ongoing monthly payment shall only be issued to one custodial caregiver identified as payee in the assistance agreement, and this person shall be the designated authority for the purpose of service provision. In the event that there is a change in the custodial status of the child, the Department shall be notified. If a change in payee is necessary, notification shall be sent to the Department in writing with the supporting legal documentation attached. The ongoing monthly payment may be adjusted for any benefits the child will continue to receive, such as Social Security, Veteran's benefits, railroad

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retirement or black lung benefits. Supplemental Security Income (SSI) benefits shall not be considered in determining the ongoing monthly payment amount. When the child is SSI-eligible following the transfer of guardianship, the guardian shall tell the Social Security Administration the amount of the ongoing monthly payment that they are receiving. The Social Security Administration may reduce the SSI payment dollar for dollar as the receipt of SSI is based on income.

- B) Although eligibility for a subsidy under the subsidized guardianship program shall be determined regardless of the financial circumstances of the prospective subsidized guardian, the types and amounts of assistance under each subsidized guardianship agreement shall be determined by the Department in the same manner as described for adoption assistance in Section 302.310(c) of this Part.
- 3) A Medicaid card.
- 4) Needs Not Payable through Other Sources
- A) Physical, emotional and mental health needs not payable through insurance or public resources (e.g., other State or community funded programs) that are associated with, or result from, a condition whose onset has been established as occurring prior to the transfer of guardianship. Payment shall not be made until the Department has been notified in writing that such services will begin and has approved the requested services, and a contract (when applicable) has been executed. The Department's reimbursement shall be limited to what is usual, customary and reasonable based on Medicaid-eligible service rates in the community as determined by the Department.
- B) The Department will not pay for physical, emotional, medical, mental health or psychological services or treatment for a pre-existing condition or risk factors unless the pre-existing condition, service or risk factor is included in the subsidized guardianship agreement.

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- 5) Therapeutic Day Care
Therapeutic day care is available only for children who are determined to have a disability that requires special educational services through an Individualized Education Plan (IEP), an Individual Family Service Plan (IFSP), or a 504 Educational Special Needs Plan and is not fundable through another source. Specific therapeutic interventions must be provided as an integral part of the day care programming. Payment for therapeutic day care shall not be made until the Department has been notified in writing that such services will begin and has approved the requested services, and a contract has been executed (when applicable).
- 6) Employment Related Day Care
Payment may be made for day care for children under the age of three years if the guardian is employed or in a training program that will lead to employment. Payment for day care services shall end on the child's third birthday. This day care payment cannot be used in addition to therapeutic day care.
- 7) College Scholarships and the Education and Training Voucher Program
Children who are receiving subsidized guardianship assistance may apply for a 4-year college scholarship awarded by the Department on a competitive basis. A limited number of scholarships is awarded by the Department each year to high school or high school equivalent graduates. Youth who enter into subsidized guardianship or are adopted from foster care after attaining age 16 are eligible to enter the Education and Training Voucher (ETV) Program.
- f) Responsibilities of the Subsidized Guardian
Subsidized guardians are responsible for the following:
- 1) ensuring that parents have the opportunity to visit their children in accordance with the provisions/orders of the court; and
 - 2) notifying the Department no later than 30 days after any one of the following occurrences:
 - A) the child is no longer the legal responsibility of the guardian;
 - B) the guardian no longer financially supports the child;

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- C) the child graduates from high school or equivalent;
 - D) there is a change of residential address or mailing address of the guardian or the child;
 - E) the child dies;
 - F) the child becomes an emancipated minor;
 - G) the child marries;
 - H) the child enlists in the military;
 - I) the mental or physical incapacity of the guardian prevents the guardian from discharging the responsibilities necessary to protect and care for the child;
 - J) the custodial status of the child changes; or
 - K) the guardianship is vacated.
- g) Department Responsibilities
- 1) The Department shall ensure that members of sibling groups are placed together, unless there is an explicit determination that they should not be placed together for the reasons described in 89 Ill. Adm. Code 301 (Placement and Visitation Services).
 - 2) The Department shall explain in the child's service plan the following:
 - A) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;
 - B) the reasons for any separation of siblings during placement;
 - C) the reasons why a permanent placement with a fit and willing relative through a subsidized guardianship assistance arrangement is in the child's best interests;

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- D) the ways in which the child meets the eligibility requirements for a subsidized guardianship assistance payment;
 - E) the efforts the agency has made to discuss adoption with the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefor; and
 - F) the efforts made by the Department to discuss with the child's parent or parents the subsidized guardianship assistance arrangement, or the reasons why the efforts were not made.
- 3) The Department shall offer short-term support services for foster care and relative home providers prior to and during subsidized guardianship. Services will include preliminary screening, assessment, assistance in applying for subsidized guardianship, and payment of one time only court costs and legal fees, if required.
 - 4) The Department shall ensure that an orientation is provided to the caregiver's family to ensure that all family members understand the benefits and responsibilities of all the participants in the subsidized guardianship arrangement.
 - 5) The Department shall ensure that each guardian has access to post-guardianship staff to respond to requests for information and assistance.
 - 6) The Department shall ensure that all guardians are aware of their right to appeal service decisions with which they may disagree under 89 Ill. Adm. Code 337 (Service Appeal Process).
 - 7) The Department shall accept custody of the child in accordance with the Abused and Neglected Child Reporting Act [325 ILCS 5] if the guardian does not care for him or her to the extent the child's health or well-being is endangered.
- h) Periodic Reviews

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Periodic reviews are annual re-certifications that are required for children in guardianship homes to maintain their eligibility for the Title XIX Medicaid Program. The Department shall conduct periodic reviews to confirm that the child remains eligible for a Medicaid card. The guardians will receive written notice of the review, and response from the guardians to this notice is a requirement.

i) Termination of Payments

Payments for subsidized guardianship assistance shall terminate when the Department has determined that any one of the following has occurred:

- 1) when the terms of the subsidized guardianship agreement are fulfilled;
- 2) the guardian has requested that the payment permanently stop;
- 3) the guardian is no longer financially supporting the child;
- 4) the child becomes an emancipated minor;
- 5) the child marries;
- 6) the child enlists in the military;
- 7) the child reaches age 18; a child 18 years of age graduates from high school or equivalent or reaches age 19, whichever occurs first; or a child who has a physical, mental or emotional disability that was documented prior to the 18th birthday reaches age 21;
- 8) the guardian dies;
- 9) the guardianship is vacated; or
- 10) the child dies.

(Source: Added by emergency rulemaking at 33 Ill. Reg. 14310, effective October 1, 2009, for a maximum of 150 days)

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

<u>Section Numbers</u> :	<u>Emergency Action</u> :
140.526	Repeal
140.530	Amendment
140.860	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date: October 1, 2009
- 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 will expire at the end of 150 days or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: September 30, 2009
- 8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This change in reimbursement methodology for county owned or operated nursing facilities will provide reimbursement for delivery of resident services consistent with other certified nursing facilities and will provide assistance with financial issues at the state and county levels of government.
- 10) Complete Description of the Subjects and Issues Involved: In compliance with the federal Centers for Medicare and Medicaid Services' rule to limit government providers to no more than cost, this emergency rulemaking provides new methodology to reimburse county-owned or -operated nursing facilities at cost. The cost would be certified as a county expenditure by submission of the facility's cost report, and the facility would receive an interim payment from the Department in the amount that it would receive by applying Minimum Data Set (MDS)-based rates. Federal financial participation (FFP) would be claimed on the higher certified cost, and the Department would then pass through a portion of the FFP to the county.
- 11) Are there any other proposed rulemakings pending on this Part? Yes

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<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
140.3	Amendment	33 Ill. Reg. 1617; January 30, 2009
140.403	New Section	33 Ill. Reg. 1617; January 30, 2009
140.400	Amendment	33 Ill. Reg. 4468; March 27, 2009
140.425	Amendment	33 Ill. Reg. 5178; April 10, 2009
140.2	Amendment	33 Ill. Reg. 10204; July 17, 2009
140.992	Amendment	33 Ill. Reg. 11174; July 31, 2009
140.994	Amendment	33 Ill. Reg. 11174; July 31, 2009

- 12) Statement of Statewide Policy Objective: This rulemaking does affect units of local government. It will have an impact on county government entities that own or operate nursing facilities enrolled in the Medical Assistance Program.
- 13) Information and questions regarding these emergency amendments shall be directed to:

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

217/782-1233

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

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

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Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

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

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	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)
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140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
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140.27	Assignment of Vendor Payments
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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
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140.42	Limitation on Prior Approval
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140.44	Withholding of Payments Due to Fraud or Misrepresentation
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)

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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)
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- 140.98 Covered Hospital Services (Recodified)
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- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
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- 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)
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- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
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- 140.373 Utilization (Repealed)
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- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
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140.416	Optometric Services and Materials
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140.420	Dental Services
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- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
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SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

Section

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

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508,

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effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective

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April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective

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April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992;

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emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1,

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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

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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

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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; preemptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; preemptory 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; preemptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days.

SUBPART E: GROUP CARE

Section 140.526 County Contribution to Medicaid Reimbursement (Repealed)

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EMERGENCY

- a) ~~Pursuant to the Public Aid Code [305 ILCS 5/5-5.4b], this Section shall provide for county contributions to the funding of Medicaid nursing facility services.~~
- b) ~~Beginning November 1, 2006, a county that owns or operates a Medicaid certified nursing facility shall contribute to the funding of Medicaid services an amount, determined by the methodology described in subsections (h) and (i) of this Section, which shall be deposited into the Long Term Care Provider Fund.~~
- c) ~~The county contribution shall be due the fourth Tuesday of each month via electronic funds transfer.~~
- d) ~~Beginning January 1, 2007, the Department shall notify each applicable county of the amount due for the quarter, the amounts due for each month, and dates that the contributions are due. The notification shall be sent during the first week of a quarter for contributions due in the next quarter.~~
- e) ~~For contribution amounts applicable for services delivered on and after April 1, 2007, a county may request a review of the contribution amount (also known as the transfer amount) by writing to the Department's Division of Medical Programs, Chief of the Bureau of Long Term Care. A letter requesting a review must be received by the Bureau of Long Term Care at least 60 days before the beginning of the quarter. The Bureau shall review the calculations and extenuating circumstances documented by the county and verified by the Bureau. The Bureau shall respond in writing no less than 30 days before the beginning of the applicable quarter.~~
- f) ~~The contribution amount will be determined by estimating the Medicaid liability of each county owned/operated nursing facility for the period. Beginning September 1, 2007, the contribution shall include a reconciliation component as described in subsection (j) of this Section. The Department shall compute the estimated liability using the calculation described in subsections (h) and (i) of this Section when the Department is liable in whole or in part, except for when Medicare is the primary payer.~~
- g) ~~Counties will be responsible for a percentage of the total liability at one of three rates: 38 percent, 39 percent or 40 percent. The rate for a given county will be determined by comparing the county's median family income to the statewide~~

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~~median family income, as published by the U. S. Department of Commerce (Small Area Income and Poverty Estimates, 2003). The standard deviation of the median family income for the applicable counties will be computed. If the county's median family income is below the statewide median family income minus one standard deviation, the county's contribution rate will be 38 percent; if it is above the statewide median family income plus one standard deviation, the county's contribution rate will be 40 percent. Counties with a median family income within one standard deviation of the statewide median family income shall contribute 39 percent.~~

- h) ~~For the period from October 1, 2006 through December 31, 2006 (fourth quarter), the Department shall calculate the contribution amount by:~~
- ~~1) calculating the average of the total number of Medicaid paid days for fourth quarter 2003, fourth quarter 2004, fourth quarter 2005 (weighted twice) to get the estimated total paid days;~~
 - ~~2) multiplying the estimated average by the Medicaid per diem rate;~~
 - ~~3) multiplying the outcome by the county contribution rate (38 percent, 39 percent or 40 percent as described in subsection (e)) to get the estimated fourth quarter payment; and~~
 - ~~4) dividing this amount by three to get the monthly county contribution to the State.~~
- i) ~~Beginning January 1, 2007, the Department shall calculate the contribution amount each quarter by:~~
- ~~1) averaging the total number of Medicaid paid days for the similar quarter during the past four years to get the estimated total paid days (for example, first quarter of 2003, 2004, 2005 and 2006 will be used to calculate the first quarter 2007 total);~~
 - ~~2) multiplying the estimated average by the Medicaid per diem rate;~~
 - ~~3) multiplying the outcome by the county contribution rate (38 percent, 39 percent or 40 percent as described in subsection (e)) to get the estimated quarterly payment; and~~

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- 4) ~~dividing this amount by three to get the monthly county contribution to the State.~~
- j) ~~The Department shall reconcile from the estimated county contribution to an amount based on actual reimbursement to the facility. This reconciliation shall be computed quarterly and shall be applied to the contribution calculated under subsections (h) and (i).~~
- k) ~~For the period between November 1, 2006 and March 31, 2007, the Department shall notify each applicable county of the monthly contributions at least 30 days before the payment is due.~~
- l) ~~For the period between November 1, 2006 and March 31, 2007, a county may request a review of the calculation of the contribution amount by writing to the Chief of the Bureau of Long Term Care. A letter requesting a review must be received by the Bureau of Long Term Care within seven calendar days after the Department's notification. The Bureau shall review the calculations and extenuating circumstances documented by the county and verified by the Bureau. The Bureau shall respond in writing within seven calendar days.~~
- m) ~~The Department shall send vouchers for county nursing facilities' claims to the Comptroller within seven calendar days after the date that county contributions are due.~~
- n) ~~The county nursing facility shall retain the payment from the Department.~~
- o) ~~Notwithstanding the provisions set forth in Section 140.569, effective November 1, 2006, county owned/operated nursing facilities shall no longer be reimbursed an exceptional care rate for those residents approved under the Exceptional Care Program. Additionally, no further assessments for exceptional care shall be completed for residents admitted on or after November 1, 2006.~~

(Source: Repealed by emergency rulemaking at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days)

Section 140.530 Basis of Payment for Long Term-Care Services
EMERGENCY

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- a) The amount approved for payment for long term care services is based on the type and amount of services required by and actually being furnished to a resident and is determined in accordance with the Department's rate schedule.
- b) Costs not related to patient care, as well as costs in excess of those required for the efficient and economical delivery of care, will not be reimbursed.
- c) Rates and payments
 - 1) Rates for long term care services shall be the sum of the reimbursable costs of capital, support, and nursing, as defined in this Part and 89 Ill. Adm. Code 147.
 - 2) Additionally, for county-owned or operated nursing facilities, rates shall include allowable costs incurred in excess of the reimbursable costs defined in this Part and 89 Ill. Adm. Code 147. Costs in excess of reimbursable costs shall be certified from the signed annual cost report submitted by the county to the Department.
 - 3) Payment for long term care services is on a per diem basis. In determining the number of days for which payment can be made, the day of admission to the facility is counted. The day of discharge from the facility is not counted, unless it is the day of death and death occurs in the facility or a reserved bed has been authorized for that day.
 - 4) Payments by the Department for long term care services shall not exceed reimbursable costs as defined in this Part and 89 Ill. Adm. Code 147 less what is contributed by third party liability.
- d) Definitions
 - 1) "Allowable costs" are those which are appropriate patient care expenditures as defined in this Part and 89 Ill. Adm. Code 147.
 - 2) "Reimbursable costs" are determined by the application of statistical standardizations of allowable costs for all providers within various defined groups to the costs of individual providers within such groups.
 - 3) "County-owned nursing facility" is a nursing facility owned and operated

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by an Illinois county.

- e) ~~Reimbursement methodology for county-owned/operated nursing facilities~~
- 1) ~~Except for nursing facility services for which Medicare is the primary payer, the per diem rate for qualifying nursing facilities shall be 94 percent of the average rate that is determined by applying a modified Medicare reimbursement methodology to the facility's Medicaid residents. The modification to the Medicare methodology shall consist of the use of the 34-class Resource Utilization Groups (RUGs) grouper, in lieu of the grouper used by Medicare.~~
 - 2) ~~For purposes of the calculation, each resident will be assigned a case mix weighting factor that is the arithmetic mean of the weighting factors derived from the nursing facility Minimum Data Set (MDS) data transmitted to the State for Medicaid residents who resided in the facility on the 15th day of February preceding the beginning of the State fiscal year during which the service was provided. The resulting rates for all Medicaid-eligible residents within a facility will be averaged at the facility level. Payment rates shall be adjusted effective with any adjustments made to the Medicare Prospective Payment System (PPS) rates by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS).~~

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days)

SUBPART F: FEDERAL CLAIMING FOR STATE AND
LOCAL GOVERNMENTAL ENTITIES

Section 140.860 County Owned or Operated Nursing Facilities ~~(Repealed)~~
EMERGENCY

- a) Subject to federal approval, the Department shall draw the eligible amounts of federal monies for the covered expenditures in accordance with Section 140.530(c)(2), intergovernmental agreements between the county and State, and applicable federal regulations.
- b) Subject to federal approval, the Department shall authorize payment to the county within 45 days after receipt of the federal monies drawn for the certified

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expenditures unless the county has not provided complete, accurate and valid expenditure reports with appropriate documentation.

(Source: Added by emergency rulemaking at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days)

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- 1) Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
147.150	Amendment
147.200	Amendment
147.205	New Section
147.TABLE A	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date: October 1, 2009
- 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 rulemaking will expire at the end of 150 days or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: October 1, 2009
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The requirements of this emergency amendment take effect on October 1, 2009, and the enabling legislation stipulates that "*the adoption of rules to implement this amendatory Act of the 96th General Assembly is deemed an emergency and necessary for the public interest, safety, and welfare*".
- 10) Complete Description of the Subjects and Issues Involved: This rulemaking, which implements PA 96-743, requires the Department to begin paying nursing facilities for ventilator-dependent residents through a system separate from the Minimum Data Set-(MDS-) based reimbursement methodology.

Payment shall be made for each individual resident receiving ventilator services through the Medicaid Management Information System (MMIS). A rate for ventilator services shall be set based on geographic area for all facilities within that area, and shall consist of the \$150 add-on previously used in the MDS methodology plus the average of the ventilator-dependent minutes for each geographic area. The rates are currently adjusted annually for all facilities and quarterly for those facilities that exceed a specified

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percentage of total variable nursing time for a rate quarter as identified in the existing MDS rules.

This rulemaking also requires the Department to calculate and adjust the nursing component of the nursing facility rate under the Minimum Data Set (MDS) methodology quarterly for all nursing facilities, effective July 1, 2009. Currently, the rates are adjusted annually for all facilities and quarterly for those facilities that exceed a specified percentage of total variable nursing time for a rate quarter as identified in the existing MDS rules.

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

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

217/782-1233

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 147

REIMBURSEMENT FOR NURSING COSTS FOR GERIATRIC FACILITIES

Section

- 147.5 Minimum Data Set-Mental Health (MDS-MH) Based Reimbursement System
- 147.15 Comprehensive Resident Assessment (Repealed)
- 147.25 Functional Needs and Restorative Care (Repealed)
- 147.50 Service Needs (Repealed)
- 147.75 Definitions (Repealed)
- 147.100 Reconsiderations (Repealed)
- 147.105 Midnight Census Report
- 147.125 Nursing Facility Resident Assessment Instrument
- 147.150 Minimum Data Set (MDS) Based Reimbursement System
- EMERGENCY
- 147.175 Minimum Data Set (MDS) Integrity
- 147.200 Minimum Data Set (MDS) On-Site Review Documentation
- EMERGENCY
- 147.205 ~~Reimbursement for Ventilator Dependent Residents Nursing Rates (Repealed)~~
- EMERGENCY
- 147.250 Costs Associated with the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) (Repealed)
- 147.300 Payment to Nursing Facilities Serving Persons with Mental Illness
- 147.301 Sanctions for Noncompliance
- 147.305 Psychiatric Rehabilitation Service Requirements for Individuals With Mental Illness in Residential Facilities (Repealed)
- 147.310 Inspection of Care (IOC) Review Criteria for the Evaluation of Psychiatric Rehabilitation Services in Residential Facilities for Individuals with Mental Illness (Repealed)
- 147.315 Comprehensive Functional Assessments and Reassessments (Repealed)
- 147.320 Interdisciplinary Team (IDT) (Repealed)
- 147.325 Comprehensive Program Plan (CPP) (Repealed)
- 147.330 Specialized Care – Administration of Psychopharmacologic Drugs (Repealed)
- 147.335 Specialized Care – Behavioral Emergencies (Repealed)
- 147.340 Discharge Planning (Repealed)
- 147.345 Reimbursement for Program Costs in Nursing Facilities Providing Psychiatric

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- 147.350 Rehabilitation Services for Individuals with Mental Illness (Repealed)
Reimbursement for Additional Program Costs Associated with Providing
Specialized Services for Individuals with Developmental Disabilities in Nursing
Facilities
- 147.TABLE A Staff Time (in Minutes) and Allocation by Need Level
EMERGENCY
- 147.TABLE B MDS-MH Staff Time (in Minutes and Allocation by Need Level)
- 147.TABLE C Comprehensive Resident Assessment (Repealed)
- 147.TABLE D Functional Needs and Restorative Care (Repealed)
- 147.TABLE E Service (Repealed)
- 147.TABLE F Social Services (Repealed)
- 147.TABLE G Therapy Services (Repealed)
- 147.TABLE H Determinations (Repealed)
- 147.TABLE I Activities (Repealed)
- 147.TABLE J Signatures (Repealed)
- 147.TABLE K Rehabilitation Services (Repealed)
- 147.TABLE L Personal Information (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, VI and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 140.900 thru 140.912 and 140.Table H and 140.Table I at 12 Ill. Reg. 6956; amended at 13 Ill. Reg. 559, effective January 1, 1989; amended at 13 Ill. Reg. 7043, effective April 24, 1989; emergency amendment at 13 Ill. Reg. 10999, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 16796, effective October 13, 1989; amended at 14 Ill. Reg. 210, effective December 21, 1989; emergency amendment at 14 Ill. Reg. 6915, effective April 19, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 9523, effective June 4, 1990, for a maximum of 150 days; emergency expired November 1, 1990; emergency amendment at 14 Ill. Reg. 14203, effective August 16, 1990, for a maximum of 150 days; emergency expired January 13, 1991; emergency amendment at 14 Ill. Reg. 15578, effective September 11, 1990, for a maximum of 150 days; emergency expired February 8, 1991; amended at 14 Ill. Reg. 16669, effective September 27, 1990; amended at 15 Ill. Reg. 2715, effective January 30, 1991; amended at 15 Ill. Reg. 3058, effective February 5, 1991; amended at 15 Ill. Reg. 6238, effective April 18, 1991; amended at 15 Ill. Reg. 7162, effective April 30, 1991; amended at 15 Ill. Reg. 9001, effective June 17, 1991; amended at 15 Ill. Reg. 13390, effective August 28, 1991; emergency amendment at 15 Ill. Reg. 16435, effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 4035, effective March 4, 1992; amended at 16 Ill. Reg. 6479, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 13361, effective August 14,

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1992, for a maximum of 150 days; amended at 16 Ill. Reg. 14233, effective August 31, 1992; amended at 16 Ill. Reg. 17332, effective November 6, 1992; amended at 17 Ill. Reg. 1128, effective January 12, 1993; amended at 17 Ill. Reg. 8486, effective June 1, 1993; amended at 17 Ill. Reg. 13498, effective August 6, 1993; emergency amendment at 17 Ill. Reg. 15189, effective September 2, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 2405, effective January 25, 1994; amended at 18 Ill. Reg. 4271, effective March 4, 1994; amended at 19 Ill. Reg. 7944, effective June 5, 1995; amended at 20 Ill. Reg. 6953, effective May 6, 1996; amended at 21 Ill. Reg. 12203, effective August 22, 1997; amended at 26 Ill. Reg. 3093, effective February 15, 2002; emergency amendment at 27 Ill. Reg. 10863, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18680, effective November 26, 2003; expedited correction at 28 Ill. Reg. 4992, effective November 26, 2003; emergency amendment at 29 Ill. Reg. 10266, effective July 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 18913, effective November 4, 2005; amended at 30 Ill. Reg. 15141, effective September 11, 2006; expedited correction at 31 Ill. Reg. 7409, effective September 11, 2006; amended at 31 Ill. Reg. 8654, effective June 11, 2007; emergency amendment at 32 Ill. Reg. 415, effective January 1, 2008, for a maximum of 150 days; emergency amendment suspended at 32 Ill. Reg. 3114, effective February 13, 2008; emergency suspension withdrawn in part at 32 Ill. Reg. 4399, effective February 26, 2008 and 32 Ill. Reg. 4402, effective March 11, 2008 and 32 Ill. Reg. 9765, effective June 17, 2008; amended at 32 Ill. Reg. 8614, effective May 29, 2008; amended at 33 Ill. Reg. 9337, effective July 1, 2009; emergency amendment at 33 Ill. Reg. 14350, effective October 1, 2009, for a maximum of 150 days.

Section 147.150 Minimum Data Set (MDS) Based Reimbursement System**EMERGENCY**

- a) Public Act 94-0964 requires the Department to implement, effective January 1, 2007, a payment methodology for the nursing component of the rate paid to nursing facilities. Except for nursing facilities that are defined as Class I Institutions for Mental Diseases (IMDs) pursuant to 89 Ill. Adm. Code 145.30, reimbursement for the nursing component shall be calculated using the Minimum Data Set (MDS). Increased reimbursement under this payment methodology shall be paid only if specific appropriation for this purpose is enacted by the General Assembly.
- b) Except as referenced in subsection (c)(1)(E)(iv) of this Section, theThe nursing component of the rate shall be calculated and annually and may be adjusted quarterly. The determination of rates shall be based upon a composite of MDS data collected from each eligible resident in accordance with Section 147. Table A for those eligible residents who are recorded in the Department's Medicaid

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Management Information System as of 30 days prior to the rate period as present in the facility on the last day of the second quarter preceding the rate period. Residents for whom MDS resident identification information is missing or inaccurate, or for whom there is no current MDS record for that quarter, shall be placed in the lowest MDS acuity level for calculation purposes for that quarter. ~~The nursing component of the rate may be adjusted on a quarterly basis if any of the following conditions are met:~~

- ~~1) Total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section exceeds total variable nursing time calculated for the previous rate quarter by more than five percent.~~
 - ~~2) Total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section exceeds total variable nursing time as calculated for the annual rate period by more than ten percent.~~
 - ~~3) Total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section declines from the total variable nursing time as calculated for the annual period by more than five percent. No quarterly nursing component rate reduction shall exceed five percent from the previous rate quarter.~~
- c) Per diem reimbursement rates for nursing care in nursing facilities consist of three elements: variable time reimbursement; fringe benefit reimbursement; and reimbursement for supplies, consultants, medical directors and nursing directors.
- 1) Variable Time Reimbursement.
Variable nursing time is that time necessary to meet the major service needs of residents that vary due to their physical or mental conditions. Each need level or specific nursing service measured by the Resident Assessment Instrument is associated with an amount of time and staff level (Section 147. Table A). Reimbursement is developed by multiplying the time for each service by the wages of the type of staff performing the service except for occupational therapy, physical therapy and speech therapy. If more than one level of staff are involved in delivering a service, reimbursement for that service will be weighted by the wage and number of minutes allocated to each staff type. In calculating a facility's rate, the figures used by the Department for wages will be determined in the following manner:

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- A) The mean wages for the applicable staff levels (RNs, LPNs, certified nursing assistants (CNAs), activity staff, social workers), as reported on the cost reports and determined by regional rate area, will be the mean wages.
- B) Fringe benefits will be the average percentage of benefits to actual salaries of all nursing facilities based upon cost reports filed pursuant to 89 Ill. Adm. Code 140.543. Fringe benefits will be added to the mean wage.
- C) The base wage, including fringe benefits, will then be updated for inflation from the time period for which the wage data are available to the midpoint of the rate year to recognize projected base wage changes.
- D) Special minimum wage factor. The process used in subsection (c)(1)(A) of this Section to determine regional mean wages for RNs, LPNs and CNAs will include a minimum wage factor. For those facilities below 90% of the Statewide average, the wage is replaced by 90% of the Statewide average.
- E) Beginning January 1, 2007, facilities shall be paid a rate based upon the sum of the following:
 - i) the facility MDS-based rate multiplied by the ratio the numerator of which is the quotient obtained by dividing the additional funds appropriated specifically to pay for rates based upon the MDS nursing component methodology above the December 31, 2006 funding by the total number of Medicaid patient days utilized by facilities covered by the MDS-based system and the denominator of which is the difference between the weighted mean rate obtained by the MDS-based methodology and the weighted mean rate in effect on December 31, 2006.
 - ii) the facility rate in effect on December 31, 2006, which is defined as the facility rate in effect on December 31, 2006 plus the exceptional care reimbursement per diem

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computed in 89 Ill. Adm. Code 140.569(a)(1), multiplied by one minus the ratio computed in Section 147.150(c)(1)(E)(i). The exceptional care reimbursement per diem effective January 1, 2007 computed in 89 Ill. Adm. Code 140.569 shall be included in the nursing component of the June 30, 2006 rate unless the total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section is more than a five percent drop from the total variable nursing time calculated for the June 30, 2006 rate quarter. Then the facility will receive for the rate period zero percent of the exceptional care reimbursement per diem computed in 89 Ill. Adm. Code 140.569.

- iii) Until October 1, 2009, for~~For~~ facilities in which the number of ventilator care residents in any quarter has increased over the number used to compute the exceptional care per diem as specified in 89 Ill. Adm. Code 140.569(a)(1), the rate computed in subsections (c)(1)(E)(i) and (c)(1)(E)(ii) shall add the sum of total variable time reimbursement for the ventilator care add-on, vacation time, the average facility special patient need factors, and supply, consultant, and Director of Nursing factors for each resident receiving ventilator care in excess of the number used to compute the exceptional care per diem as specified in 89 Ill. Adm. Code 140.569(a)(1) divided by the total number of residents used to compute the MDS portion of the paid rate for that quarter. The resulting ventilator add-on shall be multiplied by one minus the ratio computed in Section 147.150(c)(1)(E)(i). This addition to the rate shall apply for each quarter regardless of the facility's eligibility for use of that quarter's MDS rate for computation of the paid facility rate as defined in subsection (b) of this Section.
- iv) The calculations referenced in subsections (c)(1)(E)(i) and (ii) of this Section shall only change annually.

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- F) The annual amount of new funds allocated for MDS reimbursement methodology beginning January 1, 2007 is \$60 million. The annual amount of new funds allocated for MDS reimbursement methodology beginning January 1, 2008 is \$50 million. The annual amount of new funds for MDS reimbursement methodology beginning January 1, 2009 is \$84 million.
- 2) Vacation, Sick Leave and Holiday Time.
The time to be added for vacation, sick leave, and holidays will be determined by multiplying the total of variable time by 5%.
- 3) Special Supplies, Consultants and the Director of Nursing.
Reimbursement will be made for health care and program supplies, consultants required by the Department of Public Health (including the Medical Director), and the Director of Nursing by applying a factor to variable time and vacation, sick leave and holiday time. (A list of consultants required by the Department of Public Health can be found in 77 Ill. Adm. Code 300.830.)
- A) Supplies will be updated for inflation using the General Services Inflator (see 89 Ill. Adm. Code 140.551). Health care and program salaries shall be updated for inflation using the Nursing and Program Inflator (see 89 Ill. Adm. Code 140.552). A factor for supplies will be the Statewide mean of the ratio of total facility health care and programs supply costs to total facility health care and programs salaries.
- B) The Director of Nursing and the consultants will be updated for inflation using the Nursing and Program Inflator (see 89 Ill. Adm. Code 140.552). A factor for the Director of Nursing and consultant costs shall be the Statewide mean of the ratio of all facilities' Director of Nursing and consultant costs to total facility health care and programs salaries.
- C) These costs shall be updated pursuant to cost reports as referenced in 89 Ill. Adm. Code 153.125(f).
- d) Determination of Facility Rates.
An amount for each resident will be calculated by multiplying the number of

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minutes from the assessment by the appropriate wages for each assessment item (see subsection (c)(1) of this Section), adding the amounts for vacation, sick and holiday time (see subsection (c)(2) of this Section), and supplies, consultants, and the Director of Nursing (see subsection (c)(3) of this Section). The average of the rates for eligible residents assessed will become the facility's per diem reimbursement rate for each eligible resident in the facility.

- e) A transition period from the payment methodology in effect on June 30, 2003 to the payment methodology in effect July 1, 2003 shall be provided for a period not exceeding December 31, 2006, as follows:
- 1) MDS-based rate adjustments under this Section shall not be effective until the attainment of a threshold. The threshold shall be attained at the earlier of either:
 - A) when all nursing facilities have established a rate (sum of all components) which is no less than the rate effective June 30, 2002, or
 - B) January 1, 2007.
 - 2) For a facility that would receive a lower nursing component rate per resident day under the payment methodology effective July 1, 2003 than the facility received June 30, 2003, the nursing component rate per resident day for the facility shall be held at the level in effect on June 30, 2003 until a higher nursing component rate of reimbursement is achieved by that facility.
 - 3) For a facility that would receive a higher nursing component rate per resident day under the payment methodology in effect on July 1, 2003 than the facility received June 30, 2003, the nursing component rate per resident day for the facility shall be adjusted based on the payment methodology in effect July 1, 2003.
 - 4) Notwithstanding subsections (e)(2) and (3) of this Section, the nursing component rate per resident day for the facility shall be adjusted in accordance with subsection (c)(1)(E) of this Section.

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(Source: Amended by emergency rulemaking at 33 Ill. Reg. 14350, effective October 1, 2009, for a maximum of 150 days)

Section 147.200 Minimum Data Set (MDS) On-Site Review Documentation
EMERGENCY

- a) Pursuant to Section 147.175, Department staff shall conduct on-site reviews of Minimum Data Set (MDS) data to determine the accuracy of resident information that is relevant to the determination of reimbursement rates.
 - 1) Department staff shall request in writing the current charts of individual residents needed to begin the review process. Current charts and completed MDSs for the previous 15 months shall be provided to the review team within an hour after this request. Additional documentation regarding reimbursement areas for the identified Assessment Reference Date (ARD) timeframe shall be provided to the review team within four hours after the initial request.
 - 2) When further documentation is needed by the review team to validate an area, the team will identify the area of reimbursement requiring additional documentation and provide the facility with the opportunity to produce that information. The facility shall provide the team with the additional documentation within 24 hours after the initial request. All documentation that is to be considered for validation must be provided to the team prior to exit.
 - 3) Pursuant to 89 Ill. Adm. Code 140.12(f), the facility shall provide Department staff with access to residents, professional and non-licensed direct care staff, facility assessors, clinical records and completed resident assessment instruments, as well as other documentation regarding residents' care needs and treatments.
 - 4) Failure to provide timely access to records may result in suspension or termination of a facility's provider agreement in accordance with 89 Ill. Adm. Code 140.16(a)(4).
 - 5) Some states may have regulations that require supportive documentation elsewhere in the record to substantiate the resident's status on particular MDS items used to calculate payment under the State's Medicaid system

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(RAI Manual, page 1-24). These additional documentation requirements shall be met for reimbursement.

- 6) The Department shall provide for a program of delegated utilization review and quality assurance. The Department may contract with medical peer review organizations to provide utilization review and quality assurance.
- b) There shall be documentation in the resident's record to support an MDS coded response indicating that the condition or activity was present or occurred during the observation or look back period. Directions provided by the RAI User's Manual (as described in Section 147.125) are the basis for all coding of the MDS. Section S is reserved for additional State-defined items. All documentation requirements pertain to the MDS 2.0 and Section S items.
- c) Each nursing facility shall ensure that MDS data for each resident accurately and completely describes the resident's condition, as documented in the resident's clinical records, maintained by the nursing facility, and the clinical records shall be current, accurate and in sufficient detail to support the reported resident data.
- d) Documentation guidance has been compiled from the RAI Manual, instructions that are present on the MDS 2.0 form itself, RAI-MH, and Illinois additional documentation requirements. If later guidance is released by CMS that contradicts or augments guidance provided in this Section, the more current information from CMS becomes the acceptable standard. If additional ICD-9 codes are published, they will be reviewed for appropriateness.
- e) Documentation from all disciplines and all portions of the resident's clinical record may be used to verify an MDS item response. All supporting documentation shall be found in the facility during an on-site visit.
- f) All conditions or treatments shall have been present or occurred within the designated observation period. Documentation in the clinical record shall consistently support the item response and reflect care related to the symptom/problem. Documentation shall apply to the appropriate observation period and reflect the resident's status on all shifts. In addition, the problems that are identified by the MDS item responses that affect the resident's status shall be addressed on the care plan. Insufficient or inaccurate documentation may result in a determination that the MDS item response submitted could not be validated.

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- g) Disease Diagnoses. Throughout Table A, when a diagnosis is required, the following must be met:
- 1) Code only those diseases or infections that have a relationship to the resident's current ADL (Activities of Daily Living) status, cognitive status, mood or behavior status, medical treatments, nursing monitoring or risk of death as directed in the RAI Manual.
 - 2) The disease conditions require a physician-documented diagnosis in the clinical record. It is good clinical practice to have the resident's physician provide supporting documentation for any diagnosis.
 - 3) Do not include conditions that have been resolved or no longer affect the resident's functioning or care plan. One of the important functions of the MDS assessment is to generate an updated, accurate picture of the resident's health status.
- h) Activities of Daily Living (ADL).
- 1) Facilities shall maintain documentation that supports the coding of Section G, Physical Functioning, and Structural Problems on the MDS during the look-back period. The documentation shall show the MDS coded level of resident self-performance and support has been met.
 - 2) Documentation shall be dated within the look-back period and must contain information from all three shifts that clearly supports the level of self-performance and support needed.
 - 3) When there is a widespread lack of supporting documentation as described in subsections (h)(1) and (2), the ADL scores for the residents lacking documentation will be reset to zero.
 - 4) When there is an occasional absence of documentation for residents in the sample, ADL scores will be based on the observation and/or interview of the resident and facility staff at the time of the review. If the resident has been discharged and there is no documentation to support the ADL coding, ADL scores will be reset to one.

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- i) Restorative services are programs under the direction and supervision of a licensed nurse and are provided by nursing staff. The programs are designed to promote the resident's ability to adapt and adjust to living as independently and safely as possible. The focus is on achieving and/or maintaining optimal physical, mental, and psychosocial functioning. A program is defined as a specific approach that is organized, planned, documented, monitored, and evaluated. Although therapists may participate in designing the initial program, members of nursing staff are still responsible for the overall coordination and supervision of restorative nursing programs. Staff completing the programs shall be communicating progress, maintenance, regression and other issues/concerns to the licensed nurse overseeing the programs. To qualify for reimbursement, the provision of restorative programs shall meet the following criteria for each program identified for reimbursement:
- 1) When programs are designed using verbal cueing as the only intervention, documentation and/or observation must support the following:
 - A) Without such cueing the resident would be unable to complete the required ADL task.
 - B) The verbal interventions are aimed at providing the resident with instructions for completing the task in such a way that promotes the resident's safety and awareness.
 - C) Verbal interventions that are simply reminders to complete the task may not be the sole content of the program.
 - 2) Documentation shall clearly define the resident's need for the program and the defined program shall correspond to the identified need of the resident. Observation and/or interview shall also support the need for the program.
 - 3) The clinical record shall identify a restorative nursing plan of care to assist the resident in reaching and/or maintaining his or her highest level of functioning. Staff completing the programs shall be aware of the program and the resident's need for the program.
 - 4) Documentation must support that the program was reevaluated and goals and interventions were revised as necessary to assist the resident in reaching and/or maintaining his or her highest level of functioning.

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- 5) Documentation shall contain objective and measurable information so that progress, maintenance or regression can be recognized from one report to the next.
- 6) Goals shall be resident specific, realistic, and measurable. Goals shall be revised as necessary. Revisions shall be made based on the resident's response to the program.
- 7) The resident's ability to participate in the program shall be addressed.
- 8) Written evidence of measurable objectives and interventions shall be in the restorative plan of care and be individualized to the resident's problems and needs. There shall be evidence the objectives and interventions were reviewed quarterly and revised as necessary.
- 9) There shall be evidence of quarterly evaluation written by a licensed nurse in the clinical record. The evaluation must assess the resident's progress and participation in the program since the last evaluation. It shall contain specific information that includes the resident's response to the program (i.e., amount of assistance required, devices used, the distance, the progress made, how well the resident tolerated the program). An evaluation shall be documented on each restorative program the resident is receiving.
- 10) There shall be written evidence that staff carrying out the programs have been trained in techniques that promote resident involvement in the activity.
- 11) If volunteers or other staff were assigned to work with specific residents, there shall be written evidence of specific training in restorative techniques that promote the resident's involvement in the restorative program.
- 12) There shall be documentation to support that the programs are ongoing and administered as planned outside the look-back period, unless there is written justification in the clinical record that supports the need to discontinue the program. Observation and/or interviews must also support that the programs are ongoing and administered as planned.

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- 13) If a restorative program is in place when a care plan is being revised, it is appropriate to reassess progress, goals, duration and frequency as part of the care planning process. The results of this reassessment shall be documented in the record.
 - 14) The actual number of minutes per day spent in a restorative program shall be documented for each resident and for each restorative program during the look-back period.
 - 15) The Department designated endurance assessment must be completed quarterly on each resident receiving two or more restorative programs. A licensed nurse must complete this assessment.
 - 16) A resident coded as totally dependent in an ADL function will only be reimbursed for one quarter for the following corresponding restorative programs: bed mobility, transfer, walking, dressing/grooming, and/or eating/swallowing.
 - 17) A resident scoring and/or receiving hospice services shall not be eligible for the following restorative programs: bed mobility, transfer, walking, dressing/grooming, eating and/or other restoratives.
 - 18) When multiple restoratives are coded in a facility, the staff levels must support the ability to deliver these programs based on the number and frequency of programs coded.
 - 19) All restorative programs shall meet the specifications of the RAI Manual for the individual restoratives.
- j) Passive Range of Motion (PROM).
- 1) The restorative program shall meet the definition of PROM as identified in the RAI Manual.
 - 2) The PROM program shall address the functional limitations identified in section G4 of the MDS.

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- 3) There shall be evidence that the program is planned and scheduled. PROM that is incidental to dressing, bathing, etc., does not count as part of a formal restorative program.
- k) Active Range of Motion (AROM).
- 1) The restorative program meets the definition of AROM as identified in the RAI Manual.
 - 2) The AROM programs shall address the functional limitations identified in section G4 of the MDS.
 - 3) There shall be evidence that the program is planned and scheduled. AROM that is incidental to dressing, bathing, etc., does not count as part of a formal restorative program.
 - 4) AROM does not include exercise groups with more than four residents assigned per supervising helper or caregiver.
- l) Splint/Brace Assistance. A splint or brace is defined as an appliance for the fixation, union, or protection of an injured part of the body.
- m) Dressing or Grooming Restorative. Grooming programs, including programs to help the resident learn to apply make-up, may be considered restorative nursing programs when conducted by a member of the activity staff. These programs shall have goals, objectives, and documentation of progress and be related to the identified deficit.
- n) Scheduled Toileting.
- 1) The program shall have documentation to support that all the requirements identified in the RAI Manual are met.
 - 2) The description of the plan shall be documented, including: frequency, reason, and response to the program.
 - 3) The plan shall be periodically evaluated and revised, as necessary, including documentation of the resident's response to the plan.

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- 4) This does not include a "check and change" program or routine changing of the resident's incontinent briefs, pads or linens when wet, when there is no participation in the plan by the resident.
 - 5) There shall be documentation to support the deficit in toileting and/or the episodes of incontinence.
 - 6) A resident scoring S1 = 1 (meets Subpart S criteria) shall have a corresponding diagnosis of cerebral vascular accident (CVA) or multiple sclerosis to qualify for reimbursement in scheduled toileting.
- o) Continence Care.
- 1) Documentation shall support that catheter care was administered during the look-back period.
 - 2) The type and frequency of the care shall be documented.
 - 3) Documentation shall support that the RAI requirements for a bladder retraining program were administered during the look-back period.
 - 4) The resident's level of incontinence shall be documented during the look-back period to support the bladder retraining program.
 - 5) Bladder scanners cannot be the sole content of the bladder retraining program.
- p) Pressure Ulcer Prevention.
- 1) Documentation shall support the history of resolved ulcer in the identified timeframe and/or the use of the coded interventions during the identified timeframe.
 - 2) Interventions and treatments shall meet the RAI definitions for coding.
 - 3) Documentation shall support a specific approach that is organized, planned, monitored and evaluated for coding a turning and positioning program.

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- 4) There shall be documentation that the resident was assessed related to his or her risk for developing ulcers. A resident assessed to be at high risk shall have interventions identified in the plan of care.
- q) Moderate Skin Care/Intensive Skin Care.
- 1) Interventions and treatments shall meet the RAI definitions for coding.
 - 2) Documentation of ulcers shall include staging as the ulcers appear during the look-back period.
 - 3) Documentation of ulcers shall include a detailed description that includes, but is not limited to, the stage of the ulcer, the size, the location, any interventions and treatments used during the look-back period.
 - 4) Documentation of burns shall include, but is not limited to, the location, degree, extent, interventions and treatments during the look-back period.
 - 5) Documentation of open lesions shall include, but is not limited to, location, size, depth, any drainage, interventions and treatments during the look-back period.
 - 6) Documentation of surgical wounds shall include, but is not limited to, type, location, size, depth, interventions and treatment during the look-back period.
 - 7) All treatments involving M5e, M5f, M5g, and M5h shall have a physician's order with the intervention and frequency.
 - 8) Documentation to support that the intervention was delivered during the look-back period shall be included.
 - 9) Documentation of infection of the foot shall contain a description of the area and the location.
 - 10) Documentation shall support a specific approach that is organized, planned, monitored and evaluated for coding a turning and positioning program.

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- 11) Documentation for items coded in M4 shall include documentation of an intervention, treatment, and/or monitoring of the problem or condition identified.
- r) IV Therapy.
 - 1) Documentation shall include the date delivered, type of medication and method of administration.
 - 2) Documentation shall support monitoring of an acute medical condition (physical or psychiatric illness) by a licensed nurse as required in subsection (y) of this Section.
- s) Injections. Documentation shall include the drug, route given and dates given.
- t) Oxygen Therapy. Documentation shall include a physician's order and the method of administration and date given.
- u) Chemotherapy. Documentation shall support the resident was monitored for response to the chemotherapy.
- v) Dialysis. Documentation shall support the resident was monitored for response to the dialysis.
- w) Blood Glucose Monitoring.
 - 1) Documentation shall support that RAI criteria for coding a diagnosis was met, including a physician documented diagnosis.
 - 2) Documentation shall support coding of a therapeutic diet being ordered and given to the resident.
 - 3) Documentation shall support coding of a dietary supplement being ordered and given to the resident during the look-back period. There shall be evidence to support it was not part of a unit's daily routine for all residents.
 - 4) Documentation shall support the coding that injections were given the entire seven days of the look-back period.

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- x) Infectious Disease.
 - 1) Documentation shall support that the criteria defined in the RAI Manual for coding this subsection were met.
 - 2) Documentation shall support the active diagnosis by the physician and shall include signs and symptoms of the illness.
 - 3) Interventions and treatments shall be documented.
 - 4) Documentation shall support that all RAI requirements for coding a Urinary Tract Infection (UTI) are met.
 - 5) Administration of maintenance medication to prevent further acute episodes of UTI is not sufficient to code I2j.

- y) Acute Medical Conditions.
 - 1) Documentation shall support that the RAI requirements for coding these areas are met.
 - 2) Documentation shall support monitoring of an acute medical condition (physical or psychiatric illness) by a licensed nurse.
 - 3) There shall be evidence that the physician has evaluated and identified the medically unstable or acute condition for which clinical monitoring is needed.
 - 4) There shall be evidence of significant increase in licensed nursing monitoring.
 - 5) There shall be evidence that the episode meets the definition of acute, which is usually of sudden onset and time-limited course.

- z) Pain Management.
 - 1) There shall be documentation to support the resident's pain experience during the look-back period and that interventions for pain were offered and/or given.

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- 2) Residents shall be assessed in a consistent, uniform and standardized process to measure and assess pain.
- aa) Discharge Planning.
- 1) Social services shall document monthly the resident's potential for discharge, specific steps being taken toward discharge, and the progress being made.
 - 2) Social service documentation shall demonstrate realistic evaluation, planning, and follow-through.
 - 3) Discharge plans shall address the current functional status of the resident, medical nursing needs, and the availability of family and/or community resources to meet the needs of the resident.
- bb) Nutrition.
- 1) Documentation shall support coding of tube feeding during the look-back period.
 - 2) Intake and output records and caloric count shall be documented to support the coding of K6.
 - 3) Documentation of a planned weight change shall include a diet order and a documented purpose or goal that is to facilitate weight gain or loss.
 - 4) Documentation of a dietary supplement shall include evidence that resident received the supplement and that it was ordered and given between meals.
- cc) Hydration.
- 1) Documentation shall support that the resident passes two or fewer bowel movements per week, or strains more than one of four times when having a bowel movement during the look-back period to support the coding of H2b.

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- 2) Documentation shall support that the resident received a diuretic medication during the look-back period to support the coding of O4e.
 - 3) Documentation shall include frequency of episodes and accompanying symptoms to support the coding of vomiting.
 - 4) Documentation shall include signs and symptoms, interventions and treatments used to support the coding of volume depletion, dehydration or hypovolemia.
 - 5) There shall be documentation of temperature to support the coding of fever.
 - 6) There shall be documentation to support the coding of internal bleeding that shall include the source, characteristics and description of the bleeding.
 - 7) There shall be documentation that interventions were implemented related to the problem identified.
- dd) Psychosocial Adaptation. Psychosocial adaptation is intended for residents who require a behavior symptom evaluation program or group therapy to assist them in dealing with a variety of mood or behavioral issues. The criteria for reimbursement in this area requires both an intervention program and the identification of mood or behavioral issues. Residents shall be assessed for mood and behavioral issues and interventions shall be implemented to assist the resident in dealing with the identified issues. To qualify for reimbursement in this area, the facility must meet the following criteria:
- 1) Criteria for a special behavior symptom evaluation program.
 - A) There must be documentation to support that the program is an ongoing and comprehensive evaluation of behavior symptoms.
 - B) Documentation must support the resident's need for the program.
 - C) The documentation must show that the purpose of the program is to attempt to understand the "meaning" behind the resident's identified mood or behavioral issues.

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- D) Interventions related to the identified issues must be documented in the care plan.
 - E) The care plan shall have interventions aimed at reducing the distressing symptoms.
- 2) Criteria for group therapy.
- A) There is documentation the resident regularly attends sessions at least weekly.
 - B) Documentation supports that the therapy is aimed at helping reduce loneliness, isolation, and the sense that one's problems are unique and difficult to solve.
 - C) This area does not include group recreational or leisure activities.
 - D) The therapy and interventions are addressed in the care plan.
 - E) This must be a separate session and cannot be conducted as part of skills training.
- 3) Criteria for indicators of depression.
- A) There must be documentation to support that identified indicators occurred during the look-back period.
 - B) The documentation shall support the frequency of the indicators as coded during the look-back period.
 - C) There shall be documentation to support that interventions were implemented to assist the resident in dealing with these issues.
- 4) Criteria for sense of initiative/involvement.
- A) There is documentation to support the resident was not involved or did not appear at ease with others or activities during the look-back period.

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- B) There shall be evidence that interventions were implemented to assist the resident in dealing with these issues.
- 5) Criteria for unsettled relationships/past roles.
- A) There is documentation to support the issues coded in this area during the look-back period.
 - B) There shall be evidence that interventions were implemented to assist the resident in dealing with the issues identified.
- 6) Criteria for behavioral symptoms.
- A) There is documentation to support that the behaviors occurred during the look-back period and the interventions used.
 - B) Documentation should reflect the resident's status and response to interventions.
 - C) Documentation should include a description of the behavior exhibited and the dates it occurred, as well as staff response to the behaviors.
 - D) Documentation supporting that the behaviors coded meet the RAI definitions for the identified behavior.
 - E) The care plan identifies the behaviors and the interventions to the behaviors.
- 7) Criteria for delusions/hallucinations.
- A) There is documentation to support that the delusions or hallucinations occurred during the look-back period.
 - B) Documentation contains a description of the delusion or hallucinations the resident was experiencing.
 - C) There is documentation to support the interventions used.

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- ee) Psychotropic Medication Monitoring. Documentation shall support the facility followed the documentation guidelines as directed by 42 CFR 483.25(l), Unnecessary drugs (State Operations Manual F-tag F329).
- ff) Psychiatric Services (Section S).
- 1) There shall be evidence the resident met IDPH Subpart S criteria during the look-back period.
 - 2) There shall be evidence a pre-admission screening completed by a Department of Human Services-Division of Mental Health screening entity was completed on the resident that identifies the resident as having a serious mental illness (SMI).
 - 3) Ancillary provider services are services that are provided by direct non-facility psychiatric service providers in order to meet 77 Ill. Adm. Code 300, Subpart S requirements.
 - 4) Psychiatric rehabilitation services that are provided by non-facility providers or an outside entity shall meet the needs of the SMI resident as determined by the resident's individual treatment plan (ITP).
 - 5) Facilities must ensure compliance with 77 Ill. Adm. Code 300.4050 when utilizing non-facility or outside ancillary providers.
 - 6) Adjustments in the rate for utilization of ancillary providers shall be calculated based upon Department claims data for ancillary provider billing.
- gg) Skills Training. Skills training is specific methods for assisting residents who need and can benefit from this training to address identified deficits and reach personal and clinical goals. To qualify for reimbursement, the provision of skills training shall meet all of the following criteria:
- 1) Skills and capabilities shall be assessed with the use of a standardized skills assessment, a cognitive assessment and an assessment of motivational potential. The assessment of motivational potential will

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assist in determining the type and size of the group in which a resident is capable of learning.

- 2) Addresses identified skill deficits related to goals noted in the treatment plan.
- 3) Skills training shall be provided by staff that are paid by the facility and have been trained in leading skills groups by a Department approved trainer.
- 4) Training shall be provided in a private room with no other programs or activities going on at the same time. The environment shall be conducive to learning in terms of comfort, noise, and other distractions.
- 5) Training shall be provided in groups no larger than ten, with reduced group size for residents requiring special attention due to cognitive, motivational or clinical issues, as determined by the skills assessment, cognition and motivational potential. Individual sessions can be provided as appropriate and shall be identified in the care plan.
- 6) Training shall utilize a well-developed, structured curriculum and specific written content developed in advance to guide each of the sessions. (Published skills modules developed for the severe mentally ill (SMI) and Mental Illness/Substance Abuse (MISA) populations are available for use and as models.)
- 7) The curriculum shall address discrete sets of skill competencies, breaking skills down into smaller components or steps in relation to residents' learning needs.
- 8) The specific written content shall provide the rationale for learning, connecting skill acquisition to resident goals.
- 9) Training shall employ skill demonstration/modeling, auditory and visual presentation methods, role-playing and skill practice, immediate positive and corrective feedback, frequent repetition of new material, practice assignments between training sessions (homework), and brief review of material from each previous session.

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- 10) There shall be opportunities for cued skill practice and generalization outside session as identified in the care plan and at least weekly documentation relative to skill acquisition.
 - 11) Each training session shall be provided and attended in increments of a minimum of 30 minutes each (not counting time to assemble and settle) at least three times per week. Occasional absences are allowable, with individual coverage of missed material as necessary. However, on-going 1:1 training shall not qualify under this area.
- hh) Close or Constant Observations.
- 1) Coding of this item is intended only for interventions applied in response to the specific current significant need of an individual resident. This item shall not be coded for observation conducted as standard facility policy for all residents, such as for all new admissions, or as part of routine facility procedures, such as for all returns from hospital, or as a part of periodic resident headcounts.
 - 2) There shall be documentation for the reason for use, confirmation that the procedure was performed as coded with staff initials at appropriate intervals, brief explanation of the resident's condition and reason for terminating the observation.
- ii) Cognitive Impairment/Memory Assistance Services.
- 1) Documentation shall include a description of the resident's short-term memory problems.
 - 2) A method of assessing and determining the short-term memory problem shall be documented.
 - 3) Documentation shall include a description of the resident's ability to make everyday decisions about tasks or activities of daily living.
 - 4) Documentation shall include a description of the resident's ability to make himself or herself understood.
- jj) Dementia Care Unit.

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- 1) Unit was Illinois Department of Public Health certified during look-back period.
 - 2) Resident resided in the unit during the look-back period.
 - 3) Activity programming is planned and provided seven days a week for an average of eight hours per day.
 - 4) Required assessments were completed on the resident.
 - 5) If the resident has a Cognitive Performance Scale (CPS) score of five, care planning shall address the resident's participation in the unit's activities.
 - 6) If a particular resident does not participate in at least an average of four activities per day over a one-week period, the unit director shall evaluate the resident's participation and have the available activities modified and/or consult with the interdisciplinary team.
 - 7) Documentation shall support staff's efforts to involve the resident.
- kk) Exceptional Care Services.
- 1) Respiratory Services.
 - A) A respiratory therapist shall evaluate the status of the resident at least monthly if the resident has a tracheostomy.
 - B) Documentation of respiratory therapy being provided 15 minutes a day shall be present in the clinical record for the look-back period.
 - C) Documentation of a physician's ~~orders~~order for the treatments.
 - D) Respiratory therapy requires documentation in the record of the treatment and the times given by a qualified professional (respiratory therapist or trained nurse) as defined in the RAI Manual.

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- E) Documentation of suctioning includes type, frequency and results of suctioning.
- F) Documentation of trach care includes type, frequency and description of the care provided.
- ~~2)~~ ~~Ventilator Care.~~
 - ~~A) If the facility has residents receiving ventilator care, the facility shall have a respiratory therapist available at the facility or on call 24 hours a day.~~
 - ~~B) A respiratory therapist shall evaluate and document the status of the resident at least weekly.~~
- 23) Weaning From Ventilator.
Documentation shall be in place to support weaning from the ventilator.
- 34) Morbid Obesity.
 - A) A dietician's evaluation shall be completed with evidence of on-going consultation.
 - B) On-going monitoring of weight shall be evident.
 - C) The psychosocial needs related to weight issues shall be identified and addressed.
- 45) Complex Wounds.
Facilities are to follow documentation guidelines as directed by 42 CFR 483.25(c) (State Operations Manual F-tag F314). All documentation requirements listed in F314 shall be met.
- 56) Traumatic Brain Injury (TBI).
 - A) Documentation shall support that psychological therapy is being delivered by licensed mental health professionals, as described in the RAI Manual.

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- B) Documentation shall support a special symptom evaluation program as an ongoing, comprehensive, interdisciplinary evaluation of behavioral symptoms as described in the RAI Manual.
 - C) Documentation shall support evaluation by a licensed mental health specialist in the last 90 days. This shall include an assessment of a mood, behavioral disorder, or other mental health problems by a qualified clinical professional as described in the RAI Manual.
 - D) The care plan shall address the behaviors of the resident and the interventions used.
- ll) Accident/Fall Prevention.
- 1) Documentation shall support that the resident has the risk factor identified on the MDS.
 - 2) Documentation shall support that the resident has been assessed for fall risks.
 - 3) If the resident is identified as high risk for falls, documentation shall support that interventions have been identified and implemented.
- mm) Restraint Free.
- 1) There shall be documentation to support the previous use of a restraint and the resident response to the restraint.
 - 2) There shall be evidence that the restraint was discontinued.
- nn) Clarification and additional documentation requirements are as follows:
- 1) Defined actions such as further assessment or documentation, described in the RAI Manual as "good clinical practice", are required by the Department as supporting documentation. Clinical documentation that contributes to identification and communication of a resident's problems, needs and strengths, that monitors his or her condition on an on-going

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basis, and that records treatments and response to treatment is a matter of good clinical practice and is an expectation of trained and licensed health care professionals (RAI page 1–23).

- 2) The facility shall have in place policies and procedures to address specific care needs of the residents, written evidence of ongoing in-services for staff related to residents' specific care needs and all necessary durable medical equipment to sustain life and carry out the plan of care as designed by the physician. In the absence of these items, a referral will be made to the Illinois Department of Public Health.
- 3) No specific types of documentation or specific forms are mandated, but documentation shall be sufficient to support the codes recorded on the MDS. Treatments and services ordered and coded shall be documented as delivered in the clinical record.
- 4) When completing a significant change assessment, the guidelines provided in the RAI Manual shall be followed. This includes documenting "the initial identification of a significant change in terms of the resident's clinical status in the progress notes" as described in RAI page 2–7.
- 5) Documentation used to support coding must be signed or initialed and dated. Changes to documentation shall be done in accordance with professional standards of practice, which includes lining through the error, initialing and dating the changes made.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 14350, effective October 1, 2009, for a maximum of 150 days)

**Section 147.205 Reimbursement for Ventilator Dependent Residents Nursing Rates
EMERGENCY (Repealed)**

- a) Pursuant to Public Act 96-473, effective October 1, 2009, Department of Healthcare and Family Services (HFS) shall begin paying nursing facilities for ventilator dependent residents through a system separate from the Minimum Data Set (MDS) based reimbursement methodology. For purposes of this Section, ventilators are defined as any type of electrical or pneumatically powered closed mechanical system for residents who are, or who may become, unable to support

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their own respiration. It does include Continuous Positive Airway Pressure (CPAP) or Bi-level Positive Airway Pressure (BIPAP) devices.

- b) Payment shall be made for each individual resident receiving ventilator services through the Medicaid Management Information System (MMIS). The rate shall include the facility specific support, capital and nursing components plus the geographic area average ventilator minutes from the MDS and \$150 supply cost.
- c) Other services coded by a facility on the MDS for a ventilator dependent resident shall continue to be applied toward the nursing component of the nursing facility rate.
- d) Staffing
 - 1) A minimum of one RN on duty on the day shift, seven days per week (as required by the Department of Public Health (DPH) in 77 Ill. Adm. Code 300.1240 or 250.910(e) and 250.910(f)(1), as appropriate). Additional RN staff may be determined necessary by HFS, based on HFS' review of the ventilator services.
 - 2) A minimum of the required number of LPN staff (as required by DPH in 77 Ill. Adm. Code 300.1230, 300.1240 or 250.910(e) and 250.910(f)(1), as appropriate), on duty, with an RN on call, if not on duty on the evening and night shifts, seven days per week.
 - 3) A certified respiratory therapy technician or registered respiratory therapist shall be available at the facility or on call 24 hours a day.
 - 4) A certified respiratory therapist shall evaluate and document the respiratory status of the ventilator resident on a weekly basis.
 - 5) At least one of the full-time licensed nursing staff members must have successfully completed a course in the care of ventilator dependent individuals and the use of ventilators, conducted and documented by a certified respiratory therapy technician or registered respiratory therapist or a qualified registered nurse who has at least one year experience in the care of ventilator dependent persons.

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- 6) All staff caring for ventilator dependent residents must have documented in-service training in ventilator care prior to providing that care. In-service training must be conducted at least annually by a certified respiratory therapy technician or registered respiratory therapist or a qualified registered nurse who has at least one-year experience in the care of ventilator dependent persons. In-service training documentation shall include name and qualification of the in-service director, duration of presentation, content of presentation and signature and position description of all participants.
- e) Physical Plant
The Provider shall have and maintain physical plant adaptations to accommodate the necessary equipment, such as, an emergency electrical backup system.
- f) Notification to HFS
A provider shall notify HFS, in writing, when a ventilator dependent resident is admitted and discharged from the facility. Notification in either instance shall occur within five days after the admission or discharge. Discharge is defined as the resident leaving the facility with no intention of returning. It does not mean an admission to a hospital.
- g) Accessibility
The provider must make accessible to HFS and/or DPH all provider, resident and other records necessary to determine that the needs of the resident are being met and to determine the appropriateness of ventilator services.

(Source: Old Section 147.205 repealed at 27 Ill. Reg. 18680, effective November 26, 2003; new Section 147.205 added by emergency rulemaking at 33 Ill. Reg. 14350, effective October 1, 2009, for a maximum of 150 days)

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**Section 147. TABLE A Staff Time (in Minutes) and Allocation by Need Level
EMERGENCY**

- a) Effective July 1, 2003, each Medicare and Medicaid certified nursing facility shall complete, and transmit quarterly to the Department, a full Minimum Data Set (MDS) for each resident who resides in a certified bed, regardless of payment source. A description of the MDS items referenced in the tables found following subsection (e) of this Table A are contained in the Long Term Care Resident Assessment Instrument User's Manual available from the Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244 (December 2002).
- b) Table A identifies MDS items that shall be used to calculate a profile on each Medicaid-eligible resident within each facility.
- c) The profile for each Medicaid-eligible resident shall then be blended to determine the nursing component of the nursing facility's Medicaid rate.
- d) Each MDS item in Table A includes a description of the item and the variable time referred to in Section 147.150(c)(1). The variable time assigned to each level represents the type of staff that should be delivering the service (unlicensed, licensed, social worker and activity) and the number of minutes allotted to that service item.
- e) Following is a listing of the reimbursable MDS items found in Table A.
 - 1) Base Social Work and Activity
 - 2) Activities of Daily Living (ADL)
 - 3) Restorative Programs
 - PROM/AROM
 - Splint/Brace
 - Bed Mobility
 - Mobility/Transfer

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NOTICE OF EMERGENCY AMENDMENTS

Walking

Dressing/Grooming

Eating

Prosthetic Care

Communication

Other Restorative

Scheduled Toileting

4) Medical Services

Continence Care

Catheter Care

Bladder Retraining

Pressure Ulcer Prevention

Moderate Skin Care Services

Intensive Skin Care Services

Ostomy Care

IV Therapy

Injections

Oxygen Therapy

Chemotherapy

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NOTICE OF EMERGENCY AMENDMENTS

Dialysis

Blood Glucose Monitoring

End Stage Care

Infectious Disease

Acute Medical Conditions

Pain Management

Discharge Planning

Nutrition

Hydration

5) Mental Health (MH) Services

Psychosocial Adaptation

Psychotropic Medication Monitoring

Psychiatric Services (Section S)

Skills Training

Close or Constant Observation

6) Dementia Services

Cognitive Impairment/Memory Assistance

Dementia Care Unit

7) Exceptional Care Services

Extensive Respiratory Services

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NOTICE OF EMERGENCY AMENDMENTS

~~Ventilator Care~~

Total Weaning From Ventilator

Morbid Obesity

Complex Wound Care

Traumatic Brain Injury (TBI)

8) Special Patient Need Factors:

Communication: add 1% of staff time accrued for ADLs through Exceptional Care Services

Vision Problems: add 2% of staff time accrued for ADLs through Exceptional Care Services

Accident/Fall Prevention: add 3% of staff time accrued for ADLs through Exceptional Care Services

Restraint Free Care: add 2% of staff time accrued for ADLs through Exceptional Care Services

Activities: add 2% of staff time accrued for ADLs through Exceptional Care Services

MDS ITEMS AND ASSOCIATED STAFF TIMES

Throughout Table A, where multiple levels are identified, only the highest level shall be scored.

1) Base Social Work and Activity

Level		Unlicensed	Licensed	Social Worker	Activity
I	All Clients	0	0	5	10

2) Activities of Daily Living

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Documentation shall support the following for scoring Activities of Daily Living.

- 1) Coding of Section G, Physical Functioning, and Structural Problems on the MDS during the look-back period.
- 2) MDS coded level of resident self-performance and support has been met.
- 3) When there is a widespread lack of supporting documentation as described in subsections (1) and (2) of this item **(2)**, the ADL scores for the residents lacking documentation will be reset to zero.
- 4) When there is an occasional absence of documentation for residents in the sample, ADL scores will be based on the observation and/or interview of the resident and facility staff at the time of the review. If the resident has been discharged and there is no documentation to support the ADL coding, ADL scores will be reset to one.

Level	Composite Scores	Unlicensed	Licensed	Social Worker	Activity
I	Composite 7-8	50	7.5 RN 7.5 LPN		
II	Composite 9-11	62	9.5 RN 9.5 LPN		
III	Composite 12-14	69	10.5 RN 10.5 LPN		
IV	Composite 15-29	85	12.5 RN 12.5 LPN		

ADL Scoring Chart for the above Composite Levels

MDS values equal to "-" denote missing data.

ADL	MDS items	Description	Score
Bed Mobility	G1aA = - or G1aA = 0 or G1aA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1aA = 2.	Self-Performance = limited assistance	3

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	G1aA = 3 or G1aA = 4 or G1aA = 8 AND G1aB = - or G1aB = 0 or G1aB = 1 or G1aB = 2.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur Support = missing Support = no set up or physical help Support = set up help only Support = 1 person assist	4
	G1aB = 3 or G1aB = 8.	Support = 2+ person physical assist Support = activity did not occur	5
Transfer	G1bA = - or G1bA = 0 or G1bA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1bA = 2.	Self-Performance = limited assistance	3
	G1bA = 3 or G1bA = 4 or G1bA = 8 AND G1bB = - or G1bB = 0 or G1bB = 1 or G1bB = 2.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur Support = missing Support = no set up or physical help Support = set up help only Support = 1 person assist	4
	G1bB = 3 or G1bB = 8.	Support = 2+ person physical assist Support = activity did not occur	5
Locomotion	G1eA = - or G1eA = 0 or G1eA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1eA = 2.	Self-Performance = limited assistance	3

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	G1eA = 3 or G1eA = 4 or G1eA = 8 AND G1eB = - or G1eB = 0 or G1eB = 1 or G1eB = 2.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur Support = missing Support = no set up or physical help Support = set up help only Support = 1 person assist	4
	G1eB = 3 or G1eB = 8.	Support = 2+ person physical assist Support = activity did not occur	5
Toilet	G1iA = - or G1iA = 0 or G1iA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1iA = 2.	Self-Performance = limited assistance	3
	G1iA = 3 or G1iA = 4 or G1iA = 8 AND G1iB = - or G1iB = 0 or G1iB = 1 or G1iB = 2.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur Support = missing Support = no set up or physical help Support = set up help only Support = 1 person assist	4
	G1iB = 3 or G1iB = 8.	Support = 2+ person physical assist Support = activity did not occur	5
	Dressing	G1gA = - or G1gA = 0 or G1gA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision
	G1gA = 2.	Self-Performance = limited assistance	2
	G1gA = 3 or G1gA = 4 or G1gA = 8.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur	3

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Hygiene	G1jA = - or G1jA = 0 or G1jA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1jA = 2.	Self-Performance = limited assistance	2
	G1jA = 3 or G1jA = 4 or G1jA = 8.	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur	3
Eating	G1hA = - or G1hA = 0 or G1hA = 1.	Self-Performance = missing Self-Performance = independent Self-Performance = supervision	1
	G1hA = 2.	Self-Performance = limited assistance	2
	G1hA = 3 or G1hA = 4 or G1hA = 8	Self-Performance = extensive assistance Self-Performance = total dependence Self-Performance = activity did not occur	3
	Or K5a = 1 or K5b = 1 and Intake = 1	Parenteral/IV in last 7 days Tube feeding in last 7 days See below	
	Where		
	Intake = 1 if		
	K6a = 3 or	Parenteral/enteral intake 51-75% of total calories	
	K6a = 4	Parenteral/enteral intake 76-100% of total calories	
	Or Intake = 1 if		
	K6a = 2 and K6b = 2 or	Parenteral/enteral intake 26-50% of total calories Average fluid intake by IV or tube is 501-1000 cc/day	

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	K6b = 3 or	Average fluid intake by IV or tube is 1001-1500 cc/day	
	K6b = 4 or	Average fluid intake by IV or tube is 1501-2000 cc/day	
	K6b = 5.	Average fluid intake by IV or tube is 2001 or more cc/day	

3) Restorative Programs

With the exception of amputation/prosthesis care and splint or brace assistance restoratives, the total number of restorative programs eligible for reimbursement shall be limited to four, with no more than three being a Level II restorative. Scheduled toileting shall be included in this limit. Splint or brace assistance and amputation/prosthesis care shall be reimbursed independently. A resident coded in I1t (CVA/stroke), I1v (hemiplegia/hemiparesis), I1w (Multiple Sclerosis), I1x (paraplegia) or I1cc (Traumatic Brain Injury) on the MDS and also coded as B4≤2 (cognitive skills for decision making) shall be limited to a total of six restoratives with no more than four being a Level II restorative. A Department designed assessment shall be required quarterly to assess the resident's endurance and the resident's ability to benefit from two or more restorative programs.

For the following restorative programs: bed mobility, mobility/transfer, walking, dressing/grooming, and eating, when the corresponding ADL is coded a "1" under self-performance on the current MDS, the previous MDS must have a code of greater than "1" to qualify for reimbursement.

If PROM is scored, AROM is reset to zero unless the resident has a diagnosis of CVA, hemiplegia/hemiparesis, multiple sclerosis, paraplegia or traumatic brain injury.

When the number of restoratives coded on the MDS exceeds the allowable limits for reimbursement, the following order shall be used.

- A) Eating Restorative
- B) Scheduled Toileting
- C) Walking Restorative
- D) Transfer Restorative

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- E) PROM/AROM
- F) Bed Mobility Restorative
- G) Communication Restorative
- H) Dressing/Grooming Restorative
- I) Other Restorative

Restorative Services are programs under the direction and supervision of a licensed nurse and are provided by nursing staff. The programs are designed to promote the resident's ability to adapt and adjust to living as independently and safely as possible. The focus is on achieving and/or maintaining optimal physical, mental, and psychosocial functioning. A program is defined as a specific approach that is organized, planned, documented, monitored, and evaluated. Although therapists may participate in designing the initial program, members of nursing staff are still responsible for the overall coordination and supervision of restorative nursing programs. Staff completing the programs should be communicating progress, maintenance, regression and other issues/concerns to the licensed nurse overseeing the programs. To qualify for reimbursement, the provision of restorative programs shall meet the following criteria for each program identified for reimbursement:

- 1) When programs are designed using verbal cueing as the only intervention, documentation and/or observation must support the following:
 - A) Without such cueing, the resident would be unable to complete the required ADL task.
 - B) The verbal interventions are aimed at providing the resident with instructions for completing the task in such a way that promotes the resident's safety and awareness.
 - C) Verbal interventions that are simply reminders to complete the task may not be the sole content of the program.

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- 2) Documentation shall clearly define the resident's need for the program and the program defined shall correspond to the identified need of the resident. Observation and/or interview shall also support the need for the program.
- 3) The clinical record shall identify a restorative nursing plan of care to assist the resident in reaching and/or maintaining his or her highest level of functioning. Staff completing the programs shall be aware of the program and the resident's need for the program.
- 4) Documentation must support that the program was reevaluated and goals and interventions were revised as necessary to assist the resident in reaching and/or maintaining his or her highest level of functioning.
- 5) Documentation shall contain objective and measurable information so that progress, maintenance or regression can be recognized from one report to the next.
- 6) Goals shall be resident specific, realistic, and measurable. Goals shall be revised as necessary. Revisions shall be made based on the resident's response to the program.
- 7) The resident's ability to participate in the program shall be addressed.
- 8) Written evidence of measurable objectives and interventions shall be in the restorative plan of care and be individualized to the resident's problems and needs. There shall be evidence the objectives and interventions were reviewed quarterly and revised as necessary.
- 9) There shall be evidence of quarterly evaluation written by a licensed nurse in the clinical record. The evaluation must assess the resident's progress and participation in the program since the last evaluation. It shall contain specific information that includes the resident's response to the program (i.e., amount of assistance required, devices used, the distance, the progress made, how well the resident tolerated the program). An evaluation shall be documented on each restorative program the resident is receiving.

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- 10) There shall be written evidence that staff carrying out the programs have been trained in techniques that promote resident involvement in the activity.
- 11) If volunteers or other staff were assigned to work with specific residents, there shall be written evidence of specific training in restorative techniques that promote the resident's involvement in the restorative program.
- 12) There shall be documentation to support that the programs are ongoing and administered as planned outside the look-back period, unless there is written justification in the clinical record that supports the need to discontinue the program. Observation and/or interviews must also support that the programs are ongoing and administered as planned.
- 13) If a restorative program is in place when a care plan is being revised, it is appropriate to reassess progress, goals, duration and frequency as part of the care planning process. The results of this reassessment shall be documented in the record.
- 14) The actual number of minutes per day spent in a restorative program shall be documented for each resident and for each restorative program during the look-back period.
- 15) The Department designated endurance assessment must be completed quarterly on each resident receiving two or more restorative programs. A licensed nurse must complete this assessment.
- 16) A resident coded as totally dependent in an ADL function will only be reimbursed for one quarter for the following corresponding restorative programs: bed mobility, transfer, walking, dressing/grooming, and/or eating/swallowing.
- 17) A resident scoring and/or receiving hospice services shall not be eligible for the following restorative programs: bed mobility, transfer, walking, dressing/grooming, eating and/or other restoratives.

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- 18) When multiple restoratives are coded in a facility, the staff levels must support the ability to deliver these programs based on the number and frequency of programs coded.
- 19) All restorative programs shall meet the specifications in the RAI Manual for the individual restoratives.

Passive Range of Motion (PROM)

The following documentation shall support the following for scoring PROM.

- 1) The restorative program shall meet the definition of PROM as identified in the RAI Manual.
- 2) The PROM program shall address the functional limitations identified in section G4 of the MDS.
- 3) There shall be evidence that the program is planned and scheduled. PROM that is incidental to dressing, bathing, etc., does not count as part of a formal restorative program.

Lev	MDS items	Description	Unl	Lic	SW	Act
	G4aA > 0 or	Any function limits in ROM of neck				
	G4bA > 0 or	Any function limits in ROM of arm				
	G4cA > 0 or	Any function limits in ROM of hand				
	G4dA > 0 or	Any function limits in ROM of leg				
	G4eA > 0 or	Any function limits in ROM of foot				
	G4fA > 0 or	Any function limits in ROM of other limitation or loss				
	G4aB > 0 or	Any function limits in voluntary movement of neck				

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	G4bB > 0 or G4cB > 0 or G4dB > 0 or G4eB > 0 or G4fB > 0	Any function limits in voluntary movement of arm Any function limits in voluntary movement of hand Any function limits in voluntary movement of leg Any function limits in voluntary movement of foot Any function limits in voluntary movement of other limitation or loss				
	AND					
I	$3 \leq P3a \leq 5$	3 to 5 days of PROM rehab	10	3 RN 3 LPN		
II	$6 \leq P3a \leq 7$	6 to 7 days of PROM rehab	15	3 RN 3 LPN		

Active Range of Motion (AROM)

The following documentation shall support the following for scoring AROM.

- 1) The restorative program meets the definition of AROM as identified in the RAI Manual.
- 2) The AROM programs shall address the functional limitations identified in section G4 of the MDS.
- 3) There shall be evidence that the program is planned and scheduled. AROM that is incidental to dressing, bathing, etc., does not count as part of a formal restorative program.
- 4) AROM does not include exercise groups with more than four residents assigned per supervising helper or caregiver.

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Lev	MDS items	Description	Unl	Lic	SW	Act
	G4aA > 0 or	Any function limits in ROM of neck				
	G4bA > 0 or	Any function limits in ROM of arm				
	G4cA > 0 or	Any function limits in ROM of hand				
	G4dA > 0 or	Any function limits in ROM of leg				
	G4eA > 0 or	Any function limits in ROM of foot				
	G4fA > 0 or	Any function limits in ROM of other limitation or loss				
	G4aB > 0 or	Any function limits in voluntary movement of neck				
	G4bB > 0 or	Any function limits in voluntary movement of arm				
	G4cB > 0 or	Any function limits in voluntary movement of hand				
	G4dB > 0 or	Any function limits in voluntary movement of leg				
	G4eB > 0 or	Any function limits in voluntary movement of foot				
	G4fB > 0	Any function limits in voluntary movement of other limitation or loss				
	AND					
I	$3 \leq P3b \leq 5$	3 to 5 days of AROM rehab	8	2 RN 2 LPN		

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II	$6 \leq P3b \leq 7$	6 to 7 days of AROM rehab	12	2 RN 2 LPN		
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Splint/Brace Assistance

The program shall meet the specifications of this restorative as defined in the RAI Manual.

A splint or brace is defined as an appliance for the fixation, union, or protection of an injured part of the body.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	$3 \leq P3c \leq 5$	3 to 5 days of assistance	8	2 RN 2 LPN		
II	$6 \leq P3c \leq 7$	6 to 7 days of assistance	12	2 RN 2 LPN		

Bed Mobility Restorative

The program shall meet the specifications of this restorative as defined in the RAI Manual.

Lev	MDS items	Description	Unl	Lic	SW	Act
	$0 < G1aA < 8$ AND $G7 = 1$	Need assistance in bed mobility Some or all ADL tasks broken into subtasks				
	AND					
I	$3 \leq P3d \leq 5$	3 to 5 days of rehab or restorative techniques	10	3 RN 3		

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				LPN		
II	$6 \leq P3d \leq 7$	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		

Mobility (Transfer) Restorative

The program shall meet the specifications of this restorative as defined in the RAI Manual.

Lev	MDS items	Description	Unl	Lic	SW	Act
	$0 < G1bA < 8$ AND $G7 = 1$	Need assistance in transfer Some or all ADL tasks broken into subtasks				
	AND					
I	$3 \leq P3e \leq 5$	3 to 5 days of rehab or restorative techniques	10	3 RN 3 LPN		
II	$6 \leq P3e \leq 7$	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		

Walking Restorative

The program shall meet the specifications of this restorative as defined in the RAI Manual.

Lev	MDS items	Description	Unl	Lic	S W	Act
	$0 < G1cA < 8$ or	Need assistance in walking in room				

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	0 < G1dA < 8 or 0 < G1eA < 8 or 0 < G1fA < 8 AND G7 = 1	Need assistance in walking in corridor Need assistance in locomotion on unit Need assistance in locomotion off unit Some or all ADL tasks broken into subtasks				
	AND					
I	3 ≤ P3f ≤ 5	3 to 5 days of rehab or restorative techniques	10	3 RN 3 LPN		
II	6 ≤ P3f ≤ 7	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		

Dressing or Grooming Restorative

The program shall meet the specifications of this restorative as defined in the RAI Manual.

Grooming programs, including programs to help the resident learn to apply make-up, may be considered restorative nursing programs when conducted by a member of the activity staff.

These programs shall have goals, objectives, and documentation of progress and be related to the identified deficit.

Lev	MDS items	Description	Unl	Lic	SW	Act
	0 < G1gA < 8 or 0 < G1jA < 8 AND	Need assistance in dressing Need assistance in personal hygiene				

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	G7 = 1 AND	Some or all ADL tasks broken into subtasks				
	B4 ≤ 2	Cognitive skills for decision making				
	AND					
	S1 = 0 AND	Does not meet Illinois Department of Public Health (IDPH) Subpart S Criteria				
I	3 ≤ P3g ≤ 5	3 to 5 days of rehab or restorative techniques	10	3 RN 3 LPN		
II	6 ≤ P3g ≤ 7	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		

Eating Restorative

The program shall meet the specifications of this restorative as defined in the RAI Manual.

Lev	MDS items	Description	Unl	Lic	SW	Act
	0 < G1hA < 8 or K1b = 1 AND G7 = 1	Need assistance in eating Has swallowing problem Some or all ADL tasks broken into subtasks				
	AND					
I	3 ≤ P3h ≤ 5	3 to 5 days of rehab or restorative techniques	15	3 RN 3 LPN		

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II	$6 \leq P3h \leq 7$	6 to 7 days of rehab or restorative techniques	20	3 RN 3 LPN		
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Amputation/Prosthetic Care

The program shall meet the specifications of this restorative as defined in the RAI Manual.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	$3 \leq P3i \leq 5$	3 to 5 days of assistance	10	3 RN 3 LPN		
II	$6 \leq P3i \leq 7$	6 to 7 days of assistance	15	3 RN 3 LPN		

Communication Restorative

The program shall meet the specifications of this restorative as defined in the RAI Manual.

Lev	MDS items	Description	Unl	Lic	SW	Act
	C4 > 0	Deficit in making self understood				
	AND					
I	$3 \leq P3j \leq 5$	3 to 5 days of rehab or restorative techniques	10	3 RN 3 LPN		

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II	$6 \leq P3j \leq 7$	6 to 7 days of rehab or restorative techniques	15	3 RN 3 LPN		
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Other Restorative

The program shall meet the specifications of this restorative as defined in the RAI Manual.

Other Restorative shall only be reimbursed for a total of two quarters regardless of the level.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P3k=3 or greater AND Q2 < 2 AND B2a = 0 AND B4 = 0 or 1 AND C6 = 0 or 1 AND S1 = 0	Other Restorative Improved or no change in care needs Short term memory okay Cognitive skills for decision making Ability to understand others Does not meet IDPH Subpart S criteria	6	5 RN 5 LPN		
II	P3k = 3 or greater AND Q1c = 1 or 2 AND	Other restorative Stay projected to be of a short duration – discharge expected to be within 90 days	6	7.5 RN 7.5 LPN		

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Q2 < 2 AND P1ar = 1 AND B2a = 0 AND B4 = 0 or 1 AND C6 = 0 or 1 AND S1 = 0	Improved or no change in care needs Provide training to return to the community Short-term memory Cognitive skills for decision making Ability to understand others Does not meet IDPH Subpart S criteria				
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Scheduled Toileting

Documentation shall support the following for scoring scheduled toileting.

- 1) The program shall have documentation to support that all the requirements identified in the RAI Manual are met.
- 2) The description of the plan, including: frequency, reason, and response to the program.
- 3) The plan shall be periodically evaluated and revised, as necessary, including documentation of the resident's response to the plan.
- 4) This does not include a "check and change" program or routine changing of the resident's incontinent briefs, pads or linens when wet, where there is no participation in the plan by the resident.
- 5) There shall be documentation to support the deficit in toileting and/or the episodes of incontinence.
- 6) A resident scoring S1 = 1 (meets Subpart S criteria) shall have corresponding diagnosis of CVA or multiple sclerosis to qualify for reimbursement in scheduled toileting.

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Lev	MDS items	Description	Unl	Lic	SW	Act
I	H3a = 1 AND S1= 0	Any scheduled toileting plan Does not meet criteria for Subpart S	22	1.5 RN 1.5 LPN		
	H3b = 0 AND	No bladder retraining program				
	H3d = 0 AND	No indwelling catheter				
	H1b > 1 or	Incontinent at least 2 or more times a week				
	GliA > 1 and <8	Self-performance = limited to total assistance				

4) Medical Services**Continence Care**

Documentation shall support the following for scoring continence care.

- 1) That catheter care was administered during the look-back period.
- 2) The type and frequency of the care.
- 3) RAI requirements for bladder retraining program were administered during the look-back period.
- 4) The resident's level of incontinence shall be documented during the look-back period to support the bladder retraining program.
- 5) Bladder scanners cannot be the sole content of the bladder retraining program.

Continence Care – Level II (Bladder Retraining) shall only be reimbursed for two quarters.

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Lev	MDS items	Description	Unl	Lic	SW	Act
I	Catheter Care H3d = 1 AND H3a = 0	Indwelling catheter present No scheduled toileting plan	12	.5 RN .5 LPN		
II	Bladder Retraining H3b = 1 AND H3a = 0 AND H1b > 1 AND B4 = 0 or 1 OR H3b = 1 AND H3a = 0 AND H1b ≤ 1 AND H4 = 1 AND B4 = 0 or 1	Bladder retraining program No scheduled toileting plan Incontinent at least 2 or more times a week Cognitive skills for decision making Bladder retraining program No scheduled toileting plan Bladder continence Change in continence Cognitive skills in decision making	32	5 RN 5 LPN		

Pressure Ulcer Prevention

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Documentation shall support the following for scoring pressure ulcer prevention.

- 1) History of resolved ulcer in the identified timeframe and/or the use of the identified interventions during the identified timeframe.
- 2) Interventions and treatments shall meet the RAI definitions for coding.
- 3) A specific approach that is organized, planned, monitored and evaluated for coding a turning and positioning program.
- 4) Resident was assessed related to his or her risk for developing ulcers. A resident assessed to be at high risk shall have interventions identified in the plan of care.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	M3 = 1 or Any two of: M5a M5b M5c M5d M5i	History of resolved ulcers in last 90 days Pressure relieving devices for chair Pressure relieving devices for bed Turning or repositioning program Nutrition or hydration intervention for skin Other prevention for skin (other than feet)	15	4 RN 4 LPN		

Moderate Skin Care/Intensive Skin Care

Documentation shall support the following for scoring moderate skin care/intensive skin care.

- 1) Interventions and treatments shall meet the RAI definitions for coding.

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- 2) Documentation of ulcers shall include staging as the ulcers appear during the look-back period.
- 3) Documentation of ulcers shall include a detailed description that includes, but is not limited to, the stage of the ulcer, the size, the location, any interventions and treatments used during the look-back period.
- 4) Documentation of burns shall include, but is not limited to, the location, degree, extent, interventions and treatments during the look-back period.
- 5) Documentation of open lesions shall include, but is not limited to, location, size, depth, any drainage, interventions and treatments during the look-back period.
- 6) Documentation of surgical wounds shall include, but is not limited to, type, location, size, depth, interventions and treatment during the look-back period.
- 7) All treatments involving M5e, M5f, M5g and M5h shall have a physician's order, with the intervention and frequency.
- 8) Documentation to support that the intervention was delivered during the look-back period shall be included.
- 9) Documentation of infection of the foot shall contain a description of the area and the location.
- 10) Documentation shall support a specific approach that is organized, planned, monitored and evaluated for coding a turning and positioning program.
- 11) Documentation for items coded in M4 shall include documentation of an intervention, treatment and/or monitoring of the problem or condition identified.

Lev	MDS items	Description	Unl	Lic	SW	Act
I		Moderate Skin Care Services	5	5 RN		

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M1a > 0 or	Stage 1 ulcers		5 LPN	
M1b > 0 or Any of:	Stage 2 ulcers Other Skin Problems (below):			
M4b = 1	Burns			
M4c = 1	Open lesions other than ulcers			
M4d = 1	Rashes			
M4e = 1	Skin desensitized to pain or pressure			
M4f = 1	Skin tears or cuts (other than surgery)			
M4g = 1 AND	Surgical wounds			
4 of the following:	Skin Treatments (below):			
M5a = 1	Pressure relieving devices for chair			
M5b = 1	Pressure relieving devices for bed			
M5c = 1	Turning or repositioning program			
M5d = 1	Nutrition or hydration intervention for skin			
M5e = 1	Ulcer care			
M5f = 1	Surgical wound care			
M5g = 1	Application of dressings (other than feet)			
M5h = 1	Application of ointments (other than feet)			

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	M5i = 1 OR (M6b = 1 or M6c = 1) AND M6f = 1	Other prevention for skin (other than feet) Infection of the foot Open lesion of the foot And application of a dressing				
II	M1c > 0 or M1d > 0 AND 4 of the following: M5a = 1 M5b = 1 M5c = 1 M5d = 1 M5e = 1 M5f = 1 M5g = 1 M5h = 1 M5i = 1	Intensive Skin Care Services Stage 3 ulcers Stage 4 ulcers Skin Treatments (below): Pressure relieving devices for chair Pressure relieving devices for bed Turning or repositioning program Nutrition or hydration intervention for skin Ulcer care Surgical wound care Application of dressings (other than feet) Application of ointments (other than feet) Other prevention for skin (other than feet)	5	15 RN 15 LPN		

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Ostomy Services

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1af = 1	Ostomy care performed	5	2.5 RN 2.5 LPN		

IV Therapy

Documentation shall support the following for scoring IV Therapy.

- 1) Date delivered, type of medication and method of administration.
- 2) Monitoring of an acute medical condition (physical or psychiatric illness) by a licensed nurse as required under acute medical conditions.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	Plac = 1 or K5a = 1 AND P1ae = 1	IV medication Parenteral/IV nutrition Monitoring acute medical condition	1	15 RN 15 LPN		

Injections

Documentation shall include the drug, route given and dates given.

Lev	MDS items	Description	Unl	Lic	SW	Act
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I	O3 = 7	Number of injections in last 7 days		3 RN 3 LPN		
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Oxygen Therapy

Documentation shall include a physician's order and the method of administration and date given.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1ag = 1	Oxygen therapy administered in last 14 days	9	7.5 RN 7.5 LPN		

Chemotherapy

Documentation shall support that the resident was monitored for response to the chemotherapy.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1aa = 1	Chemotherapy given	1	5 RN 5 LPN		

Dialysis

Documentation shall support that the resident was monitored for response to the dialysis.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1ab = 1	Dialysis given	1	5 RN 5 LPN	2	

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Blood Glucose Monitoring

Documentation shall support the following for scoring blood glucose monitoring.

- 1) RAI criteria for coding that a diagnosis was met, including a physician documented diagnosis.
- 2) Coding of a therapeutic diet being ordered and given to the resident.
- 3) Coding of a dietary supplement being ordered and given to the resident during the look-back period. There shall be evidence to support it was not part of a unit's daily routine for all residents.
- 4) Coding that injections were given the entire seven days of the look-back period.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	I1a = 1 AND K5e = 1 or K5f = 1 or O3 = 7	Diabetes mellitus Therapeutic diet Dietary supplement Injections daily		1 RN 1 LPN		

End Stage Care

Lev	MDS items	Description	Unl	Lic	SW	Act
I	J5c = 1	End stage disease, 6 or fewer months to live Restoratives including scheduled toileting and bladder retraining sets to level '0' except AROM, PROM, splint/brace. Limit of 4 quarters	10	6 RN 6 LPN	8	

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If End Stage Care has been scored, Discharge Planning shall be set to zero.

Infectious Disease

Documentation shall support the following for scoring infectious disease.

- 1) Criteria defined in the RAI Manual for coding this section was met.
- 2) Active diagnosis by the physician, including signs and symptoms of the illness.
- 3) Interventions and treatments shall be documented.
- 4) All RAI requirements for coding a urinary tract infection (UTI) are met.
- 5) Administration of maintenance medication to prevent further acute episodes of UTI is not sufficient to code I2j.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	I2a = 1 or	Antibiotic resistant infection	18	8.5 RN 8.5 LPN	1	
	I2b = 1 or	Clostridium Difficile				
	I2e = 1 or	Pneumonia				
	I2g = 1 or	Septicemia				
	I2i = 1 or	TB				
	I2j = 1 or	Urinary Tract infection present				
	I2k = 1 or	Viral hepatitis				
	I2l = 1 or	Wound infection				
	I3 = ICD9 code 041.01,133.0	Streptococcus Group A, scabies				

Acute Medical Conditions

Documentation shall support the following for scoring acute medical conditions.

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- 1) RAI requirements for coding these areas are met.
- 2) Monitoring of an acute medical condition (physical or psychiatric illness) by a licensed nurse.
- 3) Evidence that the physician has evaluated and identified the medically unstable or acute condition for which clinical monitoring is needed.
- 4) Evidence of significant increase in licensed nursing monitoring.
- 5) Evidence that the episode meets the definition of acute, which is usually of sudden onset and time-limited course.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	J5b = 1 AND	Acute episode or flare-up of chronic condition	1	11.5 RN 11.5 LPN	1	
	P1ae = 1 AND	Monitoring acute medical condition				
	P1ao = 0 OR	Not hospice care				
	(J5a = 1 AND	Condition makes resident's cognitive, ADL, mood or behavior patterns unstable				
	P1ao = 0 AND	Not hospice care				
	P1ae = 1) OR	Monitoring acute medical condition				
	(B5a = 2 or	Easily distracted over last 7 days				
	B5b = 2 or	Periods of altered perceptions or awareness of surroundings over last 7 days				

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B5c = 2 or	Episodes of disorganized speech over last 7 days				
B5d = 2 or	Periods of restlessness over last 7 days				
B5e = 2 or	Periods of lethargy over last 7 days				
B5f = 2) AND	Mental function varies over course of day in last 7 days				
P1ae = 1 AND	Monitoring acute medical condition				
P1ao = 0	Not hospice care				

Pain Management

There shall be documentation to support the resident's pain experience during the look-back period and that interventions for pain were offered and/or given.

Residents shall be assessed in a consistent, uniform and standardized process to measure and assess pain.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	J2a > 0 AND	Demonstrate or complain of pain	4	4 RN 4 LPN	1	1
	J2b > 0	Mild to excruciating intensity				

Discharge Planning

Discharge planning shall only be reimbursed for two quarters.

If end stage care has been scored, discharge planning shall be set to zero.

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Documentation shall support the following for scoring discharge planning.

- 1) Social services shall document monthly the resident's potential for discharge, specific steps being taken toward discharge, and the progress being made.
- 2) Social service documentation shall demonstrate realistic evaluation, planning, and follow-through.
- 3) Discharge plans shall address the current functional status of the resident, medical nursing needs, and the availability of family and/or community resources to meet the needs of the resident.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	Q1c = 1 or 2 AND	Stay projected to be of short duration – discharge expected to be within 90 days		8 RN 8 LPN	16	
	Q2 < 2 AND	Improved or no change in care needs				
	P1ar = 1 AND SI=0	Provide training to return to community Does not meet IDPH Subpart S criteria				

Nutrition

Documentation shall support the following for scoring nutrition.

- 1) Coding of tube feeding during the look-back period.
- 2) Intake and output records and caloric count shall be documented to support the coding of K6.
- 3) Planned weight change, including a diet order and a documented purpose or goal, that is to facilitate weight gain or loss.

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- 4) Dietary supplement, including evidence the resident received the supplement and that it was ordered and given between meals.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	K5h = 1 OR K5f = 1	On a planned weight change program Dietary supplement given between meals	2	.5 RN .5 LPN		
II	K5b = 1 and Intake = 1 Intake = 1 if K6a = 3 or K6a = 4 Or Intake = 1 if K6a = 2 and K6b = 2 or K6b = 3 or K6b = 4 or K6b = 5	Tube feeding in last 7 days See below Parenteral/ enteral intake 51-75% of total calories Parenteral/enteral intake 76-100% of total calories Parenteral/enteral intake 26-50% of total calories Average fluid intake by IV or tube is 501-1000 cc/day Average fluid intake by IV or tube is 1001-1500 cc/day Average fluid intake by IV or tube is 1501-2000 cc/day Average fluid intake by IV or tube is 2001 or more cc/day	2	12 RN 12 LPN	2	

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Hydration

Documentation shall support the following for scoring hydration.

- 1) The resident passes two or fewer bowel movements per week, or strains more than one of four times when having a bowel movement during the look-back period to support the coding of H2b.
- 2) Resident received a diuretic medication during the look-back period to support the coding of O4e.
- 3) Frequency of episodes and accompanying symptoms to support the coding of vomiting.
- 4) Signs and symptoms, interventions and treatments used to support the coding of volume depletion, dehydration or hypovolemia.
- 5) Documentation of temperature shall be present to support the coding of fever.
- 6) Coding of internal bleeding shall include the source, characteristics and description of the bleeding.
- 7) Interventions were implemented related to the problem identified.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	H2b = 1	Constipation	10	2 RN 2 LPN		1
	AND					
	K5a = 0	No parenteral/IV				
	AND					
	K5b = 0	No feeding tube				
	OR					

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Any two of the following separate conditions: 1 ≤ O4e ≤ 7 or J1o = 1 or I3 a,b,c,d,e = 276.5 or 276.52 or J1c = 1 or J1d = 1 or J1h = 1 or J1j = 1 AND K5a = 0 AND K5b = 0	Received a diuretic medication in last 7 days Vomiting Volume depletion Hypovolemia Dehydrated Did not consume most fluids provided (3 days) Fever Internal bleeding Not have parenteral/IV No feeding tube				
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5) Mental Health Services

Psychosocial Adaptation

Psychosocial adaptation is intended for residents who require a behavioral symptom evaluation program or group therapy to assist them in dealing with a variety of mood or behavioral issues. The criteria for reimbursement in this area require both an intervention program and the identification of mood or behavioral issues. Residents shall be assessed for mood and behavioral issues and interventions shall be implemented to assist the

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resident in dealing with the identified issues. To qualify for reimbursement in this area, the facility must meet the following criteria:

- 1) Criteria for special behavioral symptom evaluation program.
 - A) There must be documentation to support that the program is an ongoing and comprehensive evaluation of behavioral symptoms.
 - B) Documentation must support the resident's need for the program.
 - C) The documentation must show that the purpose of the program is to attempt to understand the "meaning" behind the resident's identified mood or behavioral issues.
 - D) Interventions related to the identified issues must be documented in the care plan.
 - E) The care plan shall have interventions aimed at reducing the distressing symptoms.
- 2) Criteria for group therapy.
 - A) There is documentation that the resident regularly attends sessions at least weekly.
 - B) Documentation supports that the therapy is aimed at helping reduce loneliness, isolation, and the sense that one's problems are unique and difficult to solve.
 - C) This area does not include group recreational or leisure activities.
 - D) The therapy and interventions are addressed in the care plan.
 - E) This must be a separate session and can not be conducted as part of skills training.
- 3) Criteria for indicators of depression.

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- A) There must be documentation to support identified indicators occurred during the look-back period.
 - B) The documentation shall support the frequency of the indicators as coded during the look-back period.
 - C) There shall be documentation to support that interventions were implemented to assist the resident in dealing with these issues.
- 4) Criteria for sense of initiative/involvement.
- A) There is documentation to support that the resident was not involved or did not appear at ease with others or activities during the look-back period.
 - B) There shall be evidence that interventions were implemented to assist the resident in dealing with these issues.
- 5) Criteria for unsettled relationships/past roles.
- A) There is documentation to support the issues coded in this area during the look-back period.
 - B) There shall be evidence that interventions were implemented to assist the resident in dealing with the issues identified.
- 6) Criteria for behavioral symptoms.
- A) There is documentation to support that the behaviors occurred during the look-back period and the interventions used.
 - B) Documentation should reflect the resident's status and response to interventions.
 - C) Documentation should include a description of the behavior exhibited and the dates it occurred, as well as staff response to the behaviors.
 - D) Documentation supports that the behaviors coded meet the RAI definitions for the identified behavior.

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- E) The care plan identifies the behaviors and the interventions to the behaviors.
- 7) Criteria for delusions/hallucinations.
- A) There is documentation to support that the delusions or hallucinations occurred during the look back period.
- B) Documentation contains a description of the delusions or hallucinations the resident was experiencing.
- C) There is documentation to support the interventions used.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	(P2a = 1 or	Behavior symptom evaluation	12	3 RN 3 LPN	8	2
	P2c = 1) AND	Group therapy				
	Any E1a-p > 0 or F1g = 1 or	Indicators of depression No indicators of psychosocial well-being				
	Any F2a-g = 1 or	Any unsettled relationships				
	Any F3a-c = 1 or	Issues with past roles				
	E4aA > 0 or	Wandering in last 7 days				
	E4bA > 0 or	Verbally abusive in last 7 days				
	E4cA > 0 or	Physically abusive in last 7 days				
	E4dA > 0 or	Inappropriate or disruptive behavior in last 7 days				
	E4eA > 0 or	Resisted care in last 7 days				

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J1e= 1 or	Delusions				
J1i = 1	Hallucinations				

Psychotropic Medication Monitoring

Documentation shall support that the facility followed the documentation guidelines as directed by 42 CFR 483.25(l), Unnecessary drugs (State Operations Manual F-tag F329).

Lev	MDS items	Description	Unl	Lic	SW	Act
I	O4a = 7 or	Antipsychotic meds	5	2.5 RN 2.5 LPN		
	O4b = 7 or	Antianxiety meds				
	O4c = 7 or	Antidepressant meds				

Psychiatric Services (Section S)

Documentation shall support the following for scoring psychiatric services (Section S).

- 1) There shall be evidence the resident met IDPH Subpart S criteria during the look-back period.
- 2) There shall be evidence a pre-admission screening completed by a Department of Human Services-Division of Mental Health screening entity was completed on the resident that identifies the resident as having a serious mental illness (SMI).

The following shall be used in coding ancillary provider services.

- 1) Ancillary provider services are services that are provided by direct non-facility psychiatric service providers in order to meet 77 Ill. Adm. Code 300, Subpart S requirements.

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- 2) Psychiatric rehabilitation services that are provided by non-facility providers or an outside entity shall meet the needs of the SMI resident as determined by the resident's individual treatment plan.
- 3) Facilities shall ensure compliance with 77 Ill. Adm. Code 300.4050 when utilizing non-facility or outside ancillary providers.
- 4) Adjustments in the rate for utilization of ancillary providers shall be calculated based upon Department claims data for ancillary provider billing.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	S1 = 1 AND ADL Index = 4 AND One or more of the following are coded M1c or M1d >0 or K5b = 1 or K5a = 1 or Plab = 1 or J5c = 1 or Plaa = 1 or Plaj = 1 or Plal = 1 AND	Meets IDPH Subpart S criteria Activities of Daily Living Composite Score = 15-29 Stage 3 or stage 4 ulcers Feeding tube Parenteral/IV Dialysis End Stage Disease Chemotherapy Tracheostomy Care provided Ventilator	6	1.5 RN 1.5 LPN	10	

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	Psychiatric Services Level II, Level III, Level IV skills training, close and constant observation, dressing/grooming and other restorative, cognitive performance, dementia care unit and discharge planning reset to zero					
II	S1 = 1 AND	Meets IDPH Subpart S criteria	13	2.5 RN 2.5 LPN	20	
	S8 = 1 AND Dressing/grooming and other restorative, cognitive performance, and dementia care unit and discharge planning reset to zero	Ancillary provider services delivered by non-facility providers				
III	S1 = 1 AND ADL Index=3 or 4 AND (AA3-A3a)/365.25 ≥ 65	Meets IDPH Subpart S criteria ADL composite score between 12-29 Resident is 65 years of age or older at time of the assessment	13	4.5 RN 4.5 LPN	20	

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	AND	reference date				
	Dressing/grooming and other restorative, cognitive performance, and dementia care unit and discharge planning reset to zero					
IV	S1 = 1 AND S8 = 0 AND Dressing/grooming and other restorative, cognitive performance, and dementia care unit and discharge planning reset to zero	Meets IDPH Subpart S criteria Ancillary provider services delivered by facility providers	16	5 RN 5 LPN	25	

Skills Training – Section S

Skills training is specific methods for assisting residents who need, and can benefit from, this training to address identified deficits and reach personal and clinical goals. To qualify for reimbursement, the provision of skills training shall meet all of the following criteria.

- 1) Skills and capabilities shall be assessed with the use of a standardized skills assessment, a cognitive assessment and an assessment of motivational potential. The assessment of motivational potential will assist in determining the type and size of the group in which a resident is capable of learning.
- 2) Addresses identified skill deficits related to goals noted in the treatment plan.

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- 3) Skills training shall be provided by staff who are paid by the facility and have been trained in leading skills group by a Department approved trainer.
- 4) Training shall be provided in a private room with no other programs or activities going on at the same time. The environment shall be conducive to learning in terms of comfort, noise and other distractions.
- 5) Training shall be provided in groups no larger than ten, with reduced group size for a resident requiring special attention due to cognitive, motivational or clinical issues, as determined by the skills assessment, cognition and motivational potential. Individual sessions can be provided as appropriate and shall be identified in the care plan.
- 6) Training shall utilize a well-developed, structured curriculum and specific written content developed in advance to guide each of the sessions. (Published skills modules developed for the SMI and Mental Illness/Substance Abuse (MISA) populations are available for use and as models.)
- 7) The curriculum shall address discrete sets of skills competencies, breaking skills down into smaller components or steps in relation to residents' learning needs.
- 8) The specific written content shall provide the rationale for learning, connecting skill acquisition to resident goals.
- 9) Training shall employ skill demonstration/modeling, auditory and visual presentation methods, role-playing and skill practice, immediate positive and corrective feedback, frequent repetition of new material, practice assignments between training sessions (homework), and brief review of material from each previous session.
- 10) There shall be opportunities for cued skill practice and generalization outside session as identified in the care plan and at least weekly documentation relative to skill acquisition.
- 11) Each training session shall be provided and attended in increments of a minimum of 30 minutes each (not counting time to assemble and settle) at least three times per week. Occasional absences are allowable, with individual coverage of missed material as necessary. However, on-going 1:1 training shall not qualify under this area.

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Lev	MDS items	Description	Unl	Lic	SW	Act
I	S7 = 1 AND S1 = 1	Skills training provided Meets IDPH Subpart S criteria	6	6 RN 6 LPN	8	6

Close or Constant Observation – Section S

The following criteria shall be met for coding close or constant observation.

- 1) Coding of this item is intended only for interventions applied in response to the specific current significant need of an individual resident. This item shall not be coded for observation conducted as standard facility policy for all residents, such as for all new admissions, or as part of routine facility procedures, such as for all returns from the hospital, or as a part of periodic resident headcounts.
- 2) There shall be documentation for the reason for use, confirmation that the procedure was performed as coded, with staff initials at appropriate intervals, brief explanation of the resident's condition and reason for terminating the observation.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	S5a-e \geq 1 AND S1 = 1	Close or constant observation Meets IDPH Subpart S criteria	6	2 RN 2 LPN	5	

If close or constant observation is scored, acute medical conditions is reset to zero.

6) Dementia Services**Cognitive Impairment/Memory Assistance Services**

Documentation shall support the following for scoring cognitive impairment/memory assistance services.

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- 1) Description of the resident's short-term memory problems.
- 2) Method of assessing and determining the short-term memory problem shall be documented.
- 3) Description of the resident's ability to make everyday decisions about tasks or activities of daily living.
- 4) Description of the resident's ability to make himself or herself understood.

Lev	CPS items	Description	Unl	Lic	SW	Act
I	CPS = 2 AND S1 = 0	Cognitive performance scale of 2 Does not meet IDPH Subpart S criteria	6			4
II	CPS = 3 or 4 AND S1 = 0	Cognitive performance scale is 3 or 4 Does not meet IDPH Subpart S criteria	16	3 RN 3 LPN	11	10
III	CPS = 5 or 6 AND S1 = 0	Cognitive performance scale is 5 or 6 Does not meet IDPH Subpart S criteria	21	5.5 RN 5.5 LPN	16	15

Cognitive Performance Scale Codes

Scale	Description
0	Intact
1	Borderline Intact
2	Mild Impairment
3	Moderate Impairment

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4	Moderate Severe Impairment
5	Severe Impairment
6	Very Severe Impairment

Impairment Count for the Cognitive Performance Scale

I code	MDS items	Description
		Note: None of B2a, B4, or C4 can be missing
IC 1	B2a = 1	Memory problem
IC 2	B4 = 1 or 2	Some dependence in cognitive skills
IC 3	$1 \leq C4 \leq 3$	Usually understood to rarely or never understood

Severe Impairment Count for the Cognitive Performance Scale

I code	MDS items	Description
		Note: None of B2a, B4, or C4 can be missing
SIC 0	Below not met	
SIC 1	B4 = 2	Moderately impaired in cognitive skills
SIC 2	C4 = 2 or 3	Sometimes understood to rarely or never understood

Cognitive Performance Scale

Scale	MDS items	Description
Coma	N1a = 0 and	Awake all or most of the time in the morning
	N1b = 0 and	Awake all or most of the time in the afternoon
	N1c = 0 and	Awake all or most of the time in the evening
	B1 = 1 and	Is comatose
	G1aA = 4 or 8 And	Bed-Mobility Self-Performance = total dependence or did not occur
	G1bA = 4 or 8 And	Transfer Self-Performance = total dependence or did not occur
	G1hA = 4 or 8 And	Eating Self-Performance = total dependence or did not occur

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6	G1iA = 4 or 8 And Not (B4 = 0,1, 2)	Toilet Use Self-Performance = total dependence or did not occur Not have cognitive skills independent to moderately impaired
6	B4 = 3 And G1hA = 4 or 8	Cognitive skills severely impaired Eating Self-Performance = total dependence or did not occur
5	B4 = 3 And G1hA = - or \leq 3	Cognitive skills severely impaired Eating Self-Performance = missing to extensive assistance
4	If IC code = 2 or 3 And SIC code = 2	Some dependence in cognitive skills Usually understood to rarely or never understood Sometimes understood to rarely or never understood
3	If IC code = 2 or 3 And SIC code = 1 If IC code = 2 or 3	Some dependence in cognitive skills Usually understood to rarely or never understood Moderately impaired in cognitive skills Some dependence in cognitive skills Usually understood to rarely or never understood
2	And SIC code = 0	Better than moderate cognition skills and usually can be understood
1	If IC code = 1	Memory problem

Dementia Care Unit

Documentation shall support the following for scoring dementia care unit.

- 1) Unit was IDPH certified during the look-back period.
- 2) Resident resided in the unit during the look-back period.
- 3) Activity programming is planned and provided seven days a week for an average of eight hours per day.
- 4) If the resident has a CPS score of five, care planning shall address the resident's participation in the unit's activities.

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- 5) If a particular resident does not participate in a least an average of four activities per day over a one-week period, the unit director shall evaluate the resident's participation and have the available activities modified and/or consult with the interdisciplinary team.
- 6) Staff's efforts to involve the resident.
- 7) Required assessments were completed on the resident.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1an = 1 AND I1q = 1 or I1u = 1 AND S1 = 0 AND CPS 2,3,4,5 AND Dementia care unit is IDPH certified	Alzheimer's/Dementia special care unit Alzheimer's Disease Dementia other than Alzheimer's Does not meet IDPH Subpart S criteria CPS score	15	4 RN 4 LPN	10	10

7) Exceptional Care Services

Respiratory Services

Documentation shall support the following for scoring respiratory services.

- 1) A respiratory therapist shall evaluate the status of the resident at least monthly if the resident has a tracheostomy.
- 2) Respiratory therapy being provided 15 minutes a day shall be present in the clinical record for the look-back period.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 3) Physician's order for the treatments.
- 4) Respiratory therapy in the record of the treatment and the times given by a qualified professional (respiratory therapist or trained nurse) as defined in the RAI Manual.
- 5) Suctioning, including type, frequency and results of suctioning.
- 6) Trach care, including type, frequency and description of the care provided.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1ai = 1 or	Perform suctioning	5	15 RN 15 LPN		
	P1aj = 1 or P1bdA = 7	Administered trach care Respiratory therapy				
II	P1ai = 1 AND	Performed suctioning	10	24 RN 24 LPN		
	P1aj = 1 AND	Administered trach care				
	P1bdA > 0	Respiratory therapy				

A \$50.00 add-on cost will be applied to all residents receiving trach care.

Ventilator Care

~~Documentation shall support the following for scoring ventilator care.~~

- 1) ~~If the facility has residents receiving ventilator care, the facility shall have a respiratory therapist available at the facility or on call 24 hours a day.~~
- 2) ~~A respiratory therapist shall evaluate and document the status of the resident at least weekly.~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

	MDS items	Description	Unl	Lic	SW	Act
I	P1a1 = 1	Receiving ventilator care	15	37.5 RN 37.5 LPN		

~~A \$150.00 add-on cost shall be applied to all residents receiving ventilator care. The trach add-on cost shall not be included.~~

Weaning From Ventilator

Documentation shall be in place to support weaning from ventilator.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	P1a1 = 0 on current MDS AND P1a1 = 1 on previous MDS	Resident no longer on ventilator Resident previously on ventilator	5	15 RN 15 LPN		

Morbid Obesity

Documentation shall support the following for scoring morbid obesity.

- 1) A dietician's evaluation was completed with evidence of on-going consultation.
- 2) On-going monitoring of weight shall be evident.
- 3) The psychosocial needs related to weight issues shall be identified and addressed.

Lev	MDS items	Description	Unl	Lic	SW	Act
I	I3 = 278.01 AND	ICD9 for morbid obesity is marked	10	5 RN 5 LPN	5	

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

K5e = 1 AND	On a therapeutic diet				
K5h = 1 AND	On planned weight change program				
G1aA = 3 and	Extensive assist				
G1aB=3 or	Requires 2+ assist with bed mobility				
G1bA=3 and	Extensive assist				
G1bB=3 or	Requires 2+ assist with transfers				
G1cA=3 and	Extensive assist				
G1cB=3 AND	Requires 2+ assist with walk in room				
P3d=7 or	On bed mobility restorative				
P3e=7 or	On transfer restorative				
P3f = 7	On walking restorative				

A \$40.00 add-on shall be applied to all residents meeting the Morbid Obesity category.

Complex Wounds

Facilities shall follow documentation guidelines as directed by 42 CFR 483.25(c) (State Operations Manual F-tag F314). All documentation requirements listed in F314 shall be met.

There are no minutes assigned to this area. It is strictly a \$15.00 add-on applied to residents meeting the following criteria.

MDS item	Description
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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

M1c or M1d > 0 AND	Presence of stage 3 or 4 PU
M2a > 0 or	Type of ulcer, pressure
M2b > 0 AND	Type of ulcer, stasis
B1 = 1 or	Comatose
G1Aa = 3 or 4 or	Bed mobility (extensive)
G1Ab = 3 or 4	Transfer (extensive)
AND any 3 of the follow:	
ICD 9 codes of (260, 261, 262, 263.0, 263.1, 263.2, 263.8, 263.9)	ICD 9-Malnutrition
ICD 9 585	ESRD
I1a = 1	Diabetes Mellitus
I1qq = 1	Renal Failure
I1j = 1	Peripheral vascular disease
I1x = 1	Paraplegia
I1z = 1	Quadriplegia
I1w = 1	Multiple Sclerosis
J5c = 1	End stage disease
H1a = 4	Incontinence of bowel
H1b = 4	Incontinence of bladder
J1c = 1	Dehydration
G6a = 1	Bedfast
J2a = 2	Pain daily
M3 = 1	History of resolved ulcers
AND all of the following:	
M5a = 1 and/or	Pressure relieving device/chair
M5b = 1 AND	Pressure relieving device/bed
M5c = 1 AND	Turn and position

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

M5d = 1 AND M5e = 1	Nutrition or hydration Ulcer care
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Traumatic Brain Injury

Documentation shall support the following for scoring traumatic brain injury.

- 1) Psychological therapy shall be delivered by licensed mental health professionals as described in the RAI Manual.
- 2) A special symptom evaluation program shall be an on-going, comprehensive, interdisciplinary evaluation of behavioral symptoms as described in the RAI Manual.
- 3) Evaluation by a licensed mental health specialist in the last 90 days. This shall include an assessment of a mood, behavioral disorder or other mental health problems by a qualified clinical professional as described in the RAI Manual.
- 4) Care plan shall address the behaviors of the resident and the interventions used.

There are no minutes assigned to this area. It is strictly a \$50.00 add-on applied to residents meeting the following criteria.

MDS item	Description
I1cc = 1 AND B1 = 0 AND S1 = 0 AND E4aA = 3 and E4 a B = 1 or E4bA = 3 and E4bB = 1 or	Traumatic brain injury Not comatose Does not meet Subpart S criteria Wandering daily and alterability Verbally abusive behavioral symptoms daily and alterability

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

E4cA = 3 and E4cB = 1 or E4dA = 3 and E4dB = 1 or E4eA = 3 and E4eB = 1 AND P1beA ≥ 1 AND P2a = 1 AND P2b = 1	Physically abusive behavioral symptoms daily and alterability Socially inappropriate/disruptive behavioral symptoms daily and alterability Resists care daily and alterability Psychological therapy Special behavior symptom evaluation Evaluation by a mental health specialist in last 90 days
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8) Special Patient Need Factors

There shall be documentation to support the deficits identified on the MDS in communication and vision problems.

Communication

Count	MDS items	Description	Staff Minutes
I	C4 > 0 or C6 > 0	Deficit in making self understood Deficit in understanding others	1% of all staff time accrued in all categories from ADLs through Exceptional Care

Vision Problems

Count	MDS items	Description	Staff Minutes
I	D1 > 0 or	Vision impaired to Severely impaired	2% of all staff time accrued in all categories from ADLs through Exceptional Care

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

	D2a = 1 or	Decreased peripheral vision	
	D2b = 1	Experience halos around lights, light flashes	

Accident/Fall Prevention

Documentation shall support the following for scoring accident/fall prevention.

- 1) The resident has the risk factor identified on the MDS.
- 2) The resident has been assessed for fall risks.
- 3) If the resident is identified as high risk for falls, interventions have been identified and implemented.

Count	MDS items	Description	Staff Minutes
I	I1aa = 1 or O4a-d = 7 or H1b > 0 or J1f = 1 or J4a = 1 or J4b = 1 or J1n = 1 or E4aA > 0	Seizure disorder Medications Incontinent urine Dizziness Fell in past 30 days Fell in past 31-180 days Has unsteady gait Wandered in last 7 days	3% of all staff time accrued in all categories from ADLs through Exceptional Care

Restraint Free

There shall be documentation to support the previous use of a restraint and the resident response to the restraint. There shall be evidence that the restraint was discontinued.

Count	MDS items	Description	Staff Minutes
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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

I	P4c > 1 or	In last assessment: Used trunk restraint daily in last 7 days	2% of all staff time accrued in all categories from ADLs through Exceptional Care
	P4d > 1 or	Used limb restraint daily in last 7 days	
	P4e > 1	Used chair that prevents rising daily in last 7 days	
	And	And in current assessment:	
	P4c = 0 and	Not used trunk restraint in last 7 days	
	P4d = 0 and	Not used limb restraint in last 7 days	
P4e = 0	Not used chair that prevents rising in last 7 days		

Activities

There shall be documentation to support the average time involved in activities.

Count	MDS items	Description	Staff Minutes
I	N2 = 0 or 1 AND Any of the following checked:	Average time involved in activities	2% of all staff time accrued in all categories from ADLs through Exceptional Care
	G6a = 1 or	Bedfast all or most of the time	
	C4 > 1 or	Sometimes too rarely understood	

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

C6 > 1 or	Sometimes too rarely understands others
E1o > 0 or	Withdrawal from activity
AA3 ≤ 50 or	Age is 50 or younger at assessment reference date
E1p > 0 or	Reduced social interactions
E4a-eA > 0 or	Any behavioral symptoms
G4b-dB > 0 OR	Any limited ROM
N2 = 0 or 1 AND	Average time involved in activities
E2 > 0 AND	Mood persistence
E1a > 0 or	Negative statements
E1n > 0 or	Repetitive physical movements
E4eA > 0 or	Resists care

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

E1o > 0 or	Withdraws from activity
E1p > 0 or	Reduced social interaction
E1j > 0 or	Unpleasant mood in morning
N1d = 1 or	Not awake all or most of the time
E1g > 0 or	Statements that something terrible will happen
K3a = 1 or	Weight loss
(N1a,b,c ≤ 1 AND	Not awake all or most of the time
B1 = 0)	Not comatose

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 14350, effective October 1, 2009, for a maximum of 150 days)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PUBLIC HEARING ON PROPOSED RULES

- 1) Heading of the Part: Licensing Requirements for a Low-Level Radioactive Waste Disposal Facility
- 2) Code Citation: 32 Ill. Adm. Code 601
- 3) Register Citation to Notice of Proposed Rules: 33 Ill. Reg. 14006; October 9, 2009
- 4) Date, Time and Location of Public Hearing:

Tuesday, November 17, 2009
1:00 to 4:00 p.m.
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois
- 5) Other Pertinent Information: The October 9, 2009 *Illinois Register* incorrectly indicated that a public hearing would be held Tuesday, October 27 at the Agency office at 1035 Outer Park Drive from 9:00 a.m. to 12:00 p.m. The correct date and time is shown above.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF CORRECTIONS TO PROPOSED AMENDMENTS

- 1) Heading of the Part for which proposed rulemaking is being corrected: Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies
- 2) Code Citation: 59 Ill. Adm. Code 50
- 3) Illinois Register citation to Notice of Proposed Amendments: 33 Ill. Reg. 13244; September 25, 2009
- 4) Sections being corrected: Section 50.10 and Section 50.60
- 5) Corrections being made:

In Section 50.10 of the proposed rulemaking, the definition for "Unfounded" is corrected to remove the strike on "no" and delete a proposed reference to "less than a preponderance of the evidence". The amended definition reads as follows:

"There is no credible evidence to verify~~support~~ the substance of the allegation~~that abuse or neglect occurred~~".

In Section 50.60(a)(6) of the proposed rulemaking, "or the required reporter" was inadvertently inserted into the text after "notify the complainant" and is deleted.

The publication of this Notice of Corrections to Proposed Amendments changes the First Notice period commencement date to 10/16/09 in order to allow 45 days for public comment following these corrections.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
OCTOBER AGENDA

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

CAPITOL BUILDING
ROOM 122B
SPRINGFIELD, ILLINOIS
11:00 A.M.
OCTOBER 14, 2009

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, 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

RULEMAKINGS CURRENTLY BEFORE JCAR

PROPOSED RULEMAKINGS

Aging

1. Community Care Program (89 Ill. Adm. Code 240)
 - First Notice Published: 33 Ill. Reg. 5948 – 4/24/09
 - Expiration of Second Notice: 10/31/09

Carnival Amusement Safety Board

2. Carnival and Amusement Ride Safety Act (56 Ill. Adm. Code 6000)
 - First Notice Published: 33 Ill. Reg. 1836 – 2/6/09

JOINT COMMITTEE ON ADMINISTRATIVE RULES
OCTOBER AGENDA

-Expiration of Second Notice: 11/4/09

Central Management Services

3. Pay Plan (80 Ill. Adm. Code 310)
 - First Notice Published: 33 Ill. Reg. 10098 – 7/17/09
 - Expiration of Second Notice: 10/17/09
4. Merit and Fitness (80 Ill. Adm. Code 302)
 - First Notice Published: 33 Ill. Reg. 9208 – 7/6/09
 - Expiration of Second Notice: 10/15/09

Education

5. Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)
 - First Notice Published: 33 Ill. Reg. 7587 – 6/12/09
 - Expiration of Second Notice: 11/4/09
6. New Teacher Induction and Mentoring (23 Ill. Adm. Code 65)
 - First Notice Published: 33 Ill. Reg. 6250 – 5/1/09
 - Expiration of Second Notice: 11/4/09
7. Pupil Transportation Reimbursement (23 Ill. Adm. Code 120)
 - First Notice Published: 33 Ill. Reg. 9265 – 7/6/09
 - Expiration of Second Notice: 11/4/09
8. Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180)
 - First Notice Published: 33 Ill. Reg. 9279 – 7/6/09
 - Expiration of Second Notice: 11/4/09
9. Driver Education (23 Ill. Adm. Code 252)
 - First Notice Published: 33 Ill. Reg. 9287 – 7/6/09
 - Expiration of Second Notice: 11/4/09
10. Special Education Facilities Under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401)
 - First Notice Published: 33 Ill. Reg. 9299 – 7/6/09
 - Expiration of Second Notice: 11/4/09
11. Providers of Supplemental Educational Services (23 Ill. Adm. Code 675)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
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- First Notice Published: 33 Ill. Reg. 9305 – 7/6/09
- Expiration of Second Notice: 11/4/09

Elections

12. Campaign Financing (26 Ill. Adm. Code 100)
 - First Notice Published: 33 Ill. Reg. 9597 – 7/10/09
 - Expiration of Second Notice: 11/11/09

Environmental Protection Agency

13. Procedures for Issuing Loans from the Water Pollution Control Loan Program (35 Ill. Adm. Code 365)
 - First Notice Published: 33 Ill. Reg. 7957 – 6/19/09
 - Expiration of Second Notice: 10/28/09
14. Procedures for Providing Financial Assistance from the Water Pollution Control Loan Program under the American Recovery and Reinvestment Act of 2009 (35 Ill. Adm. Code 369)
 - First Notice Published: 33 Ill. Reg. 7960 – 6/19/09
 - Expiration of Second Notice: 10/28/09
15. Procedures for Issuing Loans from the Public Water Supply Loan Program (35 Ill. Adm. Code 662)
 - First Notice Published: 33 Ill. Reg. 7964 – 6/19/09
 - Expiration of Second Notice: 10/28/09
16. Procedures for Providing Financial Assistance from the Public Water Supply Loan Program under the American Recovery and Reinvestment Act of 2009 (35 Ill. Adm. Code 664)
 - First Notice Published: 33 Ill. Reg. 7967 – 6/19/09
 - Expiration of Second Notice: 10/28/09

Healthcare and Family Services

17. Special Eligibility Groups (89 Ill. Adm. Code 118)
 - First Notice Published: 33 Ill. Reg. 10199 – 7/17/09
 - Expiration of Second Notice: 11/8/09
18. Medical Assistance Programs (89 Ill. Adm. Code 120)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
OCTOBER AGENDA

-First Notice Published: 33 Ill. Reg. 10201 – 7/17/09
-Expiration of Second Notice: 11/8/09

19. Medical Payment (89 Ill. Adm. Code 140)
-First Notice Published: 33 Ill. Reg. 5178 – 4/10/09
-Expiration of Second Notice: 11/8/09
20. Medical Payment (89 Ill. Adm. Code 140)
-First Notice Published: 33 Ill. Reg. 10204 – 7/17/09
-Expiration of Second Notice: 11/8/09

Human Services

21. Vending Facility Program for the Blind (89 Ill. Adm. Code 650)
-First Notice Published: 33 Ill. Reg. 6621 – 5/15/09
-Expiration of Second Notice: 10/15/09
22. General Administrative Provisions (89 Ill. Adm. Code 10)
-First Notice Published: 33 Ill. Reg. 7244 – 6/5/09
-Expiration of Second Notice: 10/22/09
23. Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)
-First Notice Published: 33 Ill. Reg. 7274 – 6/5/09
-Expiration of Second Notice: 10/17/09
24. Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)
-First Notice Published: 33 Ill. Reg. 7277 – 6/5/09
-Expiration of Second Notice: 10/17/09
25. General Assistance (89 Ill. Adm. Code 114)
-First Notice Published: 33 Ill. Reg. 7280 – 6/5/09
-Expiration of Second Notice: 10/17/09
26. Food Stamps (89 Ill. Adm. Code 121)
-First Notice Published: 33 Ill. Reg. 6009 – 4/24/09
-Expiration of Second Notice: 10/17/09
27. Food Stamps (89 Ill. Adm. Code 121)
-First Notice Published: 33 Ill. Reg. 7283 – 6/5/09
-Expiration of Second Notice: 10/17/09

JOINT COMMITTEE ON ADMINISTRATIVE RULES
OCTOBER AGENDA

Natural Resources

28. Illinois Prescribed Burning Act (17 Ill. Adm. Code 1565)
-First Notice Published: 33 Ill. Reg. 8054 – 6/19/09
-Expiration of Second Notice: 10/14/09
29. Consignment of Licenses, Stamps and Permits (17 Ill. Adm. Code 2520)
-First Notice Published: 33 Ill. Reg. 7541 – 6/12/09
-Expiration of Second Notice: 10/24/09

Pollution Control Board

30. Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)
-First Notice Published: 33 Ill. Reg. 8880 – 6/26/09
-Expiration of Second Notice: 11/11/09

Racing Board

31. Jockeys, Apprentices, Jockey Agents, and Valets (11 Ill. Adm. Code 1411)
-First Notice Published: 33 Ill. Reg. 8153 – 6/19/09
-Expiration of Second Notice: 10/30/09

Revenue

32. Income Tax (86 Ill. Adm. Code 100)
-First Notice Published: 33 Ill. Reg. 11201 – 7/31/09
-Expiration of Second Notice: 11/4/09
33. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
-First Notice Published: 33 Ill. Reg. 9252 – 7/6/09
-Expiration of Second Notice: 10/30/09
34. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
-First Notice Published: 33 Ill. Reg. 11230 – 7/31/09
-Expiration of Second Notice: 11/4/09

Secretary of State

35. Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
OCTOBER AGENDA

- First Notice Published: 33 Ill. Reg. 10959 – 7/24/09
- Expiration of Second Notice: 10/23/09

36. Commercial Driver Training Schools (92 Ill. Adm. Code 1060)
- First Notice Published: 33 Ill. Reg. 9560 – 7/10/09
 - Expiration of Second Notice: 10/14/09

Teachers' Retirement System

37. The Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)
- First Notice Published: 33 Ill. Reg. 8160 – 6/19/09
 - Expiration of Second Notice: 10/30/09

Transportation

38. Roadside Memorials (92 Ill. Adm. Code 549)
- First Notice Published: 33 Ill. Reg. 10207 – 7/17/09
 - Expiration of Second Notice: 10/16/09
39. Selection of Architect-Engineer Consultant Firms (44 Ill. Adm. Code 625)
- First Notice Published: 33 Ill. Reg. 11079 – 7/24/09
 - Expiration of Second Notice: 10/23/09

EMERGENCY RULEMAKINGS

Capital Development Board

40. Illinois Energy Conservation Code (71 Ill. Adm. Code 600)
- Notice Published: 33 Ill. Reg. 12407 – 9/4/09

Education

41. Requirements for Accounting, Budgeting, Financial Reporting, and Auditing (23 Ill. Adm. Code 100)
- Notice Published: 33 Ill. Reg. 12589 – 9/11/09

Human Services

JOINT COMMITTEE ON ADMINISTRATIVE RULES
OCTOBER AGENDA

42. Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies (59 Ill. Adm. Code 50)
-Notice Published: 33 Ill. Reg. 13489 – 9/25/09
43. Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)
-Notice Published: 33 Ill. Reg. 12850 – 9/18/09

Racing Board

44. Advance Deposit Wagering (ADW) (11 Ill. Adm. Code 325)
-Notice Published: 33 Ill. Reg. 12860 – 9/18/09

PEREMPTORY RULEMAKING

Central Management Services

45. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 33 Ill. Reg. 12872 – 9/18/09

AGENCY RESPONSES

Human Services

46. Provider Requirements, Type Services, and Rates of Payment (89 Ill. Adm. Code 686; 33 Ill. Reg. 7017)

Natural Resources

47. Dam Safety Requirements (17 Ill. Adm. Code 3703; 32 Ill. Reg. 14445)

Public Health

48. Community Health Center Expansion (77 Ill. Adm. Code 975; 33 Ill. Reg. 3940)

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 September 29, 2009 through October 5, 2009 and have been scheduled for review by the Committee at its October 14, 2009 or November 17, 2009 meetings. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
11/13/09	<u>Department of Children and Family Services,</u> Foster Parent Code (89 Ill. Adm. Code 340)	7/6/09 33 Ill. Reg. 9221	10/14/09
11/13/09	<u>Illinois Finance Authority,</u> Illinois Finance Authority (74 Ill. Adm. Code 1100)	5/1/09 33 Ill. Reg. 6130	10/14/09
11/18/09	<u>Secretary of State,</u> School Bus Driver Permit (92 Ill. Adm. Code 1035)	7/31/09 33 Ill. Reg. 11257	11/17/09

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

ILLINOIS EMERGENCY MANAGEMENT AGENCY

- 1) Heading of the Part: Licensing Requirements for a Low-Level Radioactive Waste Disposal Facility
- 2) Code Citation: 32 Ill. Adm. Code 601
- 3) Register Citation of Proposed Rulemaking: 33 Ill. Reg. 14006; October 9, 2009
- 4) Explanation: The October 9, 2009 *Illinois Register* incorrectly indicated that a public hearing would be held Tuesday, October 27 at the Agency office at 1035 Outer Park Drive from 9:00 a.m. to 12:00 p.m. The public hearing will be held:

Tuesday, November 17, 2009
1:00 to 4:00 p.m.
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois

IEMA submitted the correct hearing information to the Secretary of State for publication, but the published Register contained the incorrect October date and time. JCAR regrets any inconvenience this publication error may have caused.

PROCLAMATIONS

2009-290**ACT College and Career Ready Month**

WHEREAS, ACT Inc., formerly known as American College Testing, is a not-for-profit entity dedicated to helping people achieve education and workplace success; and

WHEREAS, ACT has served this mission for fifty years, since its founding in 1959; and

WHEREAS, the Illinois ACT State Organization was one of the 16 founding state organizations in 1959; and

WHEREAS, the ACT State Organization, composed primarily of secondary and postsecondary educators, has supported education and workforce success in Illinois; and

WHEREAS, more than one billion people, including many in the State of Illinois, have been assisted by ACT education and workforce services; and

WHEREAS, the 750 members of the Illinois ACT State Organization are committed to continuing their work assisting the people of Illinois; and

WHEREAS, ACT and the Illinois ACT State Organization are again partnering in Fall 2009 to provide workshops for counselors and other educators and broad access to information about college and career planning for students and adults:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2009 as **ACT COLLEGE AND CAREER READY MONTH** in Illinois, and encourage all students and other interested citizens to take advantage of the resources ACT and the ACT Illinois State Organization provide to help them prepare for education and workplace success.

Issued by the Governor September 18, 2009

Filed by the Secretary of State October 2, 2009

2009-291**Canavan Disease Awareness Month**

WHEREAS, Canavan Research Illinois is a non-profit Illinois corporation established in April 2000 to meet a critical need to support medical research to treat, cure, and improve the quality of lives of all children battling Canavan disease, a rare fatal genetic neurological disorder; and

PROCLAMATIONS

WHEREAS, the majority of the victims of Canavan disease do not reach their 15th birthday. These innocent children face the loss of all motor functions, blindness, paralysis, feeding tubes, and eventual disintegration of the brain, at which point they fall into a vegetative state from which they cannot recover; and

WHEREAS, Canavan Research Illinois is an all volunteer charity dedicated to raise funds to support cutting-edge research, increase public awareness, and provide a network for Canavan families; and

WHEREAS, on October 17, 2009, Canavan Research Illinois will hold the 11th annual Canavan Charity Ball:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2009 as **CANAVAN DISEASE AWARENESS MONTH** in Illinois, to raise awareness of Canavan disease and in support of the worthy efforts of Canavan Research Illinois as they work to improve the quality of life for those battling this disease.

Issued by the Governor September 18, 2009

Filed by the Secretary of State October 2, 2009.

2009-292**Private First Class Matthew M. Martinek**

WHEREAS, on Friday, September 11, Private First Class Matthew M. Martinek of DeKalb, died at age 20 of injuries sustained during combat operations in Paktika Province, Afghanistan, where Private First Class Martinek was serving in support of Operation Enduring Freedom; and

WHEREAS, Private First Class Martinek was assigned to B Company, 1st Battalion, 501st Parachute Infantry Regiment, 25th Infantry Division, United States Army, based in Fort Richardson, Alaska; and

WHEREAS, Private First Class Martinek graduated from Bartlett High School in 2007, where he played on the football team and was known for his outgoing personality; and

WHEREAS, Private First Class Martinek was continuing the family tradition by serving in the military. One of his grandfathers was a World War II veteran and the other fought in the Korean War. An uncle fought in Operation Desert Storm, and his two older brothers both served tours in Iraq; and

PROCLAMATIONS

WHEREAS, a funeral will be held on Saturday, September 26 for Private First Class Martinek, who is survived by his mother and father and two brothers:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all State facilities to fly their flags at half-staff from sunrise on September 24, 2009 until sunset on September 26, 2009 in honor and remembrance of Private First Class Martinek, whose selfless service and sacrifice is an inspiration.

Issued by the Governor September 18, 2009

Filed by the Secretary of State October 2, 2009.

2009-293**How to Walk to School Day**

WHEREAS, every day, millions of parents throughout the United States, including the State of Illinois and the City of Chicago, send their children off to schools for an education; and

WHEREAS, schools make substantial contributions to the future of America and to the development of our nation's young people as knowledgeable, responsible and productive citizens; and

WHEREAS, creativity, hard work, perseverance and passion can make an astounding difference in a building and in a community; and

WHEREAS, while every child deserves a quality education and the skills they will need to succeed in life, the success of many schools is limited by budget realities, declining academic performance, unsatisfactory teaching, crime and violence; and

WHEREAS, in their book How to Walk to School, Susan Kurland and Jacqueline Edelberg tell the story of how their efforts transformed Nettelhorst School from an underutilized, struggling neighborhood institution to a successful, community-supported school; and

WHEREAS, the revitalization of the school was due to the neighborhood parents, teachers, local businesses and politicians working collectively to become advocates for their children's education and taking responsibility for the success of the school; and

PROCLAMATIONS

WHEREAS, their story is a powerful example of how parents, teachers, community members and policy makers can make a difference in reforming local schools through community involvement and collaboration; and

WHEREAS, the observance of September 26 as How to Walk to School Day presents an opportunity to emphasize the importance of education and community development and recognize the leadership and vision of Illinois parents, teachers, businesses and elected officials who are committed to school reform:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim Saturday, September 26, 2009 as **HOW TO WALK TO SCHOOL DAY** in Illinois, and recognize Nettelhorst School and the collaborative community efforts that have helped transform it into a thriving, vibrant institution.

Issued by the Governor September 25, 2009

Filed by the Secretary of State October 2, 2009.

2009-294**Adoption Awareness Month**

WHEREAS, adoption is a rewarding and enriching experience for individuals and couples who want to provide children with a stable, loving family environment; and

WHEREAS, Illinois is recognized as a national leader in finding permanent homes for waiting children, placing more than 50 thousand foster children into adoptive and subsidized guardianship homes since 1997; and

WHEREAS, largely because of its success in adoption recruitment, Illinois has become the first state in the nation to support more children in permanent adoption guardianship placements than in substitute care; and

WHEREAS, the Illinois Department of Children and Family Services, the Child Care Association of Illinois, the Adoption Information Center of Illinois, the Illinois Adoption Advisory Council, the Illinois Foster and Adoptive Parent Association, the Chicago Bar Association, and the many Illinois child welfare agencies and adoptive parent groups all encourage families to consider adopting a child in need of a home; and

WHEREAS, hundreds of children in Illinois are still awaiting adoption:

PROCLAMATIONS

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 2009 as **ADOPTION AWARENESS MONTH** in Illinois, and encourage all families to consider adopting a child into their family.

Issued by the Governor September 29, 2009

Filed by the Secretary of State October 2, 2009.

2009-295**Disability Employment Awareness Month**

WHEREAS, there are 54 million Americans with disabilities, including those with physical, sensory, and mental impairments which limit one or more major life activities; and

WHEREAS, people with disabilities are more than twice as likely to be living in poverty as their nondisabled peers; and

WHEREAS, due to poverty and isolation, these individuals are less likely to attend social, recreational, and sporting events than their friends and neighbors; and

WHEREAS, more and more American veterans are returning from Afghanistan and Iraq with post-traumatic stress disorders, traumatic brain injuries, amputations, and related complications; and

WHEREAS, approximately 70 percent of Americans with disabilities are unemployed, and those who are employed are much more likely to be underemployed; and

WHEREAS, Title I of the Americans with Disabilities Amendments Act precludes discrimination in employment against qualified individuals with disabilities; and

WHEREAS, the State of Illinois recently enacted Public Act 096-0078 encouraging public and private employers to hire qualified individuals with disabilities; and

WHEREAS, the state offers programs such as the Successful Disability Opportunity Program and the Health Benefits for Workers with Disabilities program to make employment more attainable for job seekers with a disability; and

WHEREAS, workers with disabilities have consistently proven themselves to be highly responsible, conscientious employees; and

PROCLAMATIONS

WHEREAS, the Vocational Rehabilitation program in Illinois recently received an additional \$20 million in federal funding from the American Recovery and Reinvestment Act; and

WHEREAS, the Month of October has been designated National Disability Employment Awareness Month, with a variety of activities being held throughout the nation to commemorate the contributions that employees with disabilities make in the workforce:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2009 as **DISABILITY EMPLOYMENT AWARENESS MONTH** in Illinois, and reaffirm the commitment of my administration to the recruitment, hiring, and promotion of Illinoisans with disabilities.

Issued by the Governor September 29, 2009

Filed by the Secretary of State October 2, 2009.

2009-296**Domestic Violence Awareness Month**

WHEREAS, domestic violence is a prevalent social problem that not only harms the victim, but also negatively affects the victim's family, friends and community at large; and

WHEREAS, domestic violence knows no boundaries. It exists in all neighborhoods and cities, and affects people of all ages, racial, ethnic, economic, and religious backgrounds; and

WHEREAS, one in four women will experience domestic violence sometime in her life. In Illinois alone, there are approximately 115,000 to 125,000 domestic crimes each year; and

WHEREAS, for many victims of domestic violence, abuse experienced at home often follows them to the workplace, when they are harassed by threatening phone calls and/or emails; and

WHEREAS, the health-related costs of rape, physical assault, stalking, and homicide by intimate partners amount to nearly \$6 billion every year, and the annual cost of lost productivity in the workplace due to domestic violence is estimated to be hundreds of millions of dollars, with nearly 8 million paid workdays lost per year; and

PROCLAMATIONS

WHEREAS, the Victims' Economic Security and Safety Act – VESSA – provides workplace protections specifically for victims of domestic or sexual violence; and

WHEREAS, on August 24 of this year, I signed legislation amending VESSA to expand protections to more Illinois workers who are affected by domestic or sexual violence; and

WHEREAS, VESSA, which is enforced by the Illinois Department of Labor, allows employees who are victims of domestic or sexual violence, or who have a family or household member who is a victim of domestic or sexual violence, up to 12 workweeks of unpaid leave in any 12-month period; and

WHEREAS, the Illinois Department of Human Services is dedicated to ensuring that Illinois residents live free from domestic violence, promoting prevention, and working in partnership with communities to advance equality, dignity, and respect for all; and

WHEREAS, the Illinois Department of Human Services supports dozens of multi-service domestic violence programs throughout the state, offering counseling and advocacy, legal assistance, children's services, and shelter and support services at no cost to the victim; and

WHEREAS, throughout the month of October, the Illinois Coalition Against Domestic Violence and its 54 member organizations will hold numerous events across the state in observance of Domestic Violence Awareness Month, including Silent Witness events, candlelight vigils, and marches:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2009 as **DOMESTIC VIOLENCE AWARENESS MONTH** in Illinois, to raise awareness about the problem of domestic violence throughout the state and its devastating effects on families and communities, and to urge all victims to seek help either by calling the Statewide Domestic Violence Helpline, 1-877-TO END DV (1-877-863-6338) or visiting a local help center.

Issued by the Governor September 29, 2009
Filed by the Secretary of State October 2, 2009.