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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2017

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

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

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Community Care Program
- 2) Code Citation: 89 Ill. Adm. Code 240
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
240.237	Amendment
240.1543	Amendment
240.1955	Amendment
240.1957	Amendment
- 4) Statutory Authority: 20 ILCS 10/4.01(11) and 4.02
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking makes changes in the description of and minimum equipment specifications for the automated medication dispenser (AMD) service under the Community Care Program (CCP). The changes are intended to encourage willing and qualified providers to apply for certification by the Department to provide this service. There are no certified providers for this service under the program at this time.

Revises terminology to improve consistency throughout the rules.

Section 240.237: Describes the applicable service components required of prospective AMD service provider agencies.

Section 240.1543: Lists the minimum equipment specifications for AMD service.

Sections 240.1955 and 240.1957: Eliminates a fixed unit rate of reimbursement for AMD and emergency home response services provided by the same provider.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objective: This rulemaking does not create or enlarge any State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments on this proposed rulemaking within 45 days after the date of publication of this Notice to:

Karen Alice Kloppe
Deputy General Counsel
Illinois Department on Aging
One Natural Resources Way, #100
Springfield IL 62702-1271

217/785-3346
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Prospective service provider agencies for AMD service under the Community Care Program
 - 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 2016

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

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TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING

PART 240
COMMUNITY CARE PROGRAM

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240.110	Department Prerogative
240.120	Services Provided
240.130	Maintenance of Effort
240.140	Program Limitations
240.150	Completed Applications Prior to August 1, 1982 (Repealed)
240.160	Definitions

SUBPART B: SERVICE DEFINITIONS

Section	
240.210	In-home Service
240.220	Chore-Housekeeping Service (Repealed)
240.230	Adult Day Service
240.235	Emergency Home Response Service
240.237	Automated Medication Dispenser Service
240.240	Information and Referral
240.250	Demonstration/Research Projects
240.260	Case Management Service
240.270	Alternative Provider
240.280	Individual Provider

SUBPART C: RIGHTS AND RESPONSIBILITIES

Section	
240.300	Applicant/Client Rights and Responsibilities
240.310	Right to Apply
240.320	Nondiscrimination
240.330	Freedom of Choice
240.340	Confidentiality/Safeguarding of Case Information

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- 240.350 Applicant/Client/Authorized Representative Cooperation
- 240.360 Reporting Changes
- 240.370 Voluntary Repayment

SUBPART D: APPEALS

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- 240.400 Appeals and Fair Hearings
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- 240.410 When the Appeal May Be Filed
- 240.415 What May Be Appealed
- 240.420 Group Appeals
- 240.425 Informal Review
- 240.430 Informal Review Findings
- 240.435 Withdrawing an Appeal
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- 240.440 Examining Department Records
- 240.445 Hearing Officer
- 240.450 The Hearing
- 240.451 Conduct of Hearing
- 240.455 Continuance of the Hearing
- 240.460 Postponement
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- 240.470 Rescheduling the Appeal Hearing
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- 240.480 The Appeal Decision
- 240.485 Reviewing the Official Report of the Hearing

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- Section
- 240.510 Application for Community Care Program
- 240.520 Who May Make Application
- 240.530 Date of Application
- 240.540 Statement to be Included on Application

SUBPART F: ELIGIBILITY

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240.600	Eligibility Requirements
240.610	Establishing Eligibility
240.620	Home Visit
240.630	Determination of Eligibility
240.640	Eligibility Decision
240.650	Continuous Eligibility
240.655	Frequency of Redeterminations
240.660	Extension of Time Limit

SUBPART G: NON-FINANCIAL REQUIREMENTS

Section	
240.710	Age
240.715	Determination of Need
240.720	Clients Prior to Effective Date of This Section (Repealed)
240.725	Clients After Effective Date of This Section (Repealed)
240.726	Emergency Budget Act Reduction (Repealed)
240.727	Minimum Score Requirements
240.728	Maximum Payment Levels for Plans of Care Including In-home Service
240.729	Maximum Payment Levels for Plans of Care Including Adult Day Service
240.730	Plan of Care
240.735	Supplemental Information
240.740	Assessment of Need
240.741	Prerequisites for Automated Medication Dispenser Service
240.750	Citizenship
240.755	Residence
240.760	Furnishing of Social Security Number

SUBPART H: FINANCIAL REQUIREMENTS

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240.800	Financial Factors
240.810	Assets
240.815	Exempt Assets
240.820	Asset Transfers
240.825	Income
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240.845	Family
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240.860	Change in Income
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240.870	Determination of Applicant/Client Monthly Expense for Care
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240.910	Written Notification
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240.920	Reasons for Denial
240.925	Frequency of Redeterminations (Renumbered)
240.930	Suspension of Services
240.935	Discontinuance of Services to Clients
240.940	Penalty Payments
240.945	Notification
240.950	Reasons for Termination
240.955	Reasons for Reduction or Change

SUBPART J: SPECIAL SERVICES

Section	
240.1010	Nursing Facility Screening
240.1020	Interim Services
240.1040	Intense Service Provision
240.1050	Temporary Service Increase

SUBPART K: TRANSFERS

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240.1110	Individual Transfer Request – Vendor to Vendor – No Change in Service
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- 240.1150 Interagency Transfers
- 240.1160 Temporary Transfers – Case Coordination Unit to Case Coordination Unit
- 240.1170 Caseload Transfer – Vendor to Vendor
- 240.1180 Caseload Transfer – Case Coordination Unit to Case Coordination Unit

SUBPART L: ADMINISTRATIVE SERVICE CONTRACT

Section

- 240.1210 Administrative Service Contract

SUBPART M: CASE COORDINATION UNITS AND PROVIDERS

Section

- 240.1310 Standard Contractual Requirements for Case Coordination Units and Providers
- 240.1320 Vendor or Case Coordination Unit Fraud/Illegal or Criminal Acts
- 240.1330 General Vendor and CCU Responsibilities (Repealed)
- 240.1396 Payment for Services (Repealed)
- 240.1397 Purchases and Contracts (Repealed)
- 240.1398 Safeguarding Case Information (Repealed)
- 240.1399 Termination of a Vendor or Case Coordination Unit (CCU)

SUBPART N: CASE COORDINATION UNITS

Section

- 240.1400 Community Care Program Case Management
- 240.1410 Case Coordination Unit Administrative Minimum Standards
- 240.1420 Case Coordination Unit Responsibilities
- 240.1430 Case Management Staff Positions, Qualifications and Responsibilities
- 240.1440 Training Requirements For Case Management Supervisors and Case Managers

SUBPART O: PROVIDERS

Section

- 240.1505 Administrative Requirements for Certification
- 240.1510 Provider Administrative Minimum Standards
- 240.1520 Provider Responsibilities
- 240.1525 Standard Requirements for In-home Service Providers
- 240.1530 General In-home Service Staffing Requirements
- 240.1531 Electronic Visit Verification (EVV) Requirements for In-home Service Providers

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- 240.1535 In-home Service Staff Positions, Qualifications, Training and Responsibilities
- 240.1540 General Chore-Housekeeping Staffing Requirements (Repealed)
- 240.1541 Minimum Equipment Specifications for Emergency Home Response Service
- 240.1542 Administrative Requirements for Emergency Home Response Service Providers
- 240.1543 Minimum Equipment Specifications for Automated Medication Dispenser Service
- 240.1544 Administrative Requirements for Automated Medication Dispenser Service Providers
- 240.1545 Chore-Housekeeping Staff Positions, Qualifications and Responsibilities (Repealed)
- 240.1550 Standard Requirements for Adult Day Service Providers
- 240.1555 General Adult Day Service Staffing Requirements
- 240.1560 Adult Day Service Staff
- 240.1565 Adult Day Service Satellite Sites
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- 240.1575 Adult Day Care Site Relocation
- 240.1580 Standards for Alternative Providers
- 240.1590 Standard Requirements for Individual Provider Services

SUBPART P: PROVIDER PROCUREMENT

Section

- 240.1600 Provider Agency Certification
- 240.1605 Emergency Certification
- 240.1607 Standard CCP Provider Agreement
- 240.1610 Procurement Cycle for Provider Services (Repealed)
- 240.1615 Provider Initiated Service Area Modifications
- 240.1620 Issuance of Provider Proposal and Guidelines (Repealed)
- 240.1625 Content of Provider Proposal and Guidelines (Repealed)
- 240.1630 Criteria for Number of Provider Contracts Awarded (Repealed)
- 240.1635 Evaluation of Provider Proposals (Repealed)
- 240.1640 Determination and Notification of Provider Awards (Repealed)
- 240.1645 Objection to Certification Decision
- 240.1650 Classification, Identification and Receipt of Provider Service Violations
- 240.1655 Method of Identification of Provider Service Violations (Repealed)
- 240.1660 Provider Performance Reviews
- 240.1661 Provider and Case Coordination Unit Right to Appeal
- 240.1665 Contract Actions for Failure to Comply with Community Care Program Requirements

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SUBPART Q: CASE COORDINATION UNIT PROCUREMENT

Section

- 240.1710 Procurement Cycle For Case Management Services
- 240.1720 Case Coordination Unit Performance Review

SUBPART R: ADVISORY COMMITTEE

Section

- 240.1800 Community Care Program Advisory Committee
- 240.1850 Technical Rate Review Advisory Committee (Repealed)

SUBPART S: PROVIDER RATES

Section

- 240.1910 Establishment of Fixed Unit Rates
- 240.1920 Contract Specific Variations
- 240.1930 Fixed Unit Rate of Reimbursement for Homemaker Service
- 240.1940 Fixed Unit Rates of Reimbursement for Adult Day Service and Transportation
- 240.1950 Adult Day Care Fixed Unit Reimbursement Rates
- 240.1955 Fixed Unit Rates of Reimbursement for Emergency Home Response Service
- 240.1957 Fixed Unit Rates of Reimbursement for Automated Medication Dispenser Service
- 240.1960 Case Management Fixed Unit Reimbursement Rates
- 240.1970 Enhanced Rate for Health Insurance Costs

SUBPART T: FINANCIAL REPORTING

Section

- 240.2020 Financial Reporting of In-home Service
- 240.2023 Financial Reporting of Rate-Based Increases for Direct Service Workers
- 240.2030 Unallowable Costs for In-home Service
- 240.2040 Minimum Direct Service Worker Costs for In-home Service
- 240.2050 Cost Categories for In-home Service

AUTHORITY: Implementing Section 4.02 and authorized by Section 4.01(11) and 4.02 of the Illinois Act on the Aging [20 ILCS 105/4.02 and 4.01(11)].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 1, p. 67, effective December 20, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 17, p. 151, effective April 25, 1980; amended at 4

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Ill. Reg. 43, p. 86, effective October 15, 1980; emergency amendment at 5 Ill. Reg. 1900, effective February 18, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 12090, effective October 26, 1981; emergency amendment at 6 Ill. Reg. 8455, effective July 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 14953, effective December 1, 1982; amended at 7 Ill. Reg. 8697, effective July 20, 1983; codified at 8 Ill. Reg. 2633; amended at 9 Ill. Reg. 1739, effective January 29, 1985; amended at 9 Ill. Reg. 10208, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 14011, effective August 29, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5076, effective March 15, 1986; recodified at 12 Ill. Reg. 7980; amended at 13 Ill. Reg. 11193, effective July 1, 1989; emergency amendment at 13 Ill. Reg. 13638, effective August 18, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17327, effective November 1, 1989; amended at 14 Ill. Reg. 1233, effective January 12, 1990; amended at 14 Ill. Reg. 10732, effective July 1, 1990; emergency amendment at 15 Ill. Reg. 2838, effective February 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 10351, effective July 1, 1991; emergency amendment at 15 Ill. Reg. 14593, effective October 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 17398, effective November 15, 1991, for a maximum of 150 days; emergency amendment suspended at 16 Ill. Reg. 1744; emergency amendment modified in response to a suspension by the Joint Committee on Administrative Rules and reinstated at 16 Ill. Reg. 2943; amended at 15 Ill. Reg. 18568, effective December 13, 1991; emergency amendment at 16 Ill. Reg. 2630, effective February 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 2901, effective February 6, 1992, to expire June 30, 1992; emergency amendment at 16 Ill. Reg. 4069, effective February 28, 1992, to expire June 30, 1992; amended at 16 Ill. Reg. 11403, effective June 30, 1992; emergency amendment at 16 Ill. Reg. 11625, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 11731, effective June 30, 1992; emergency rule added at 16 Ill. Reg. 12615, effective July 23, 1992, for a maximum of 150 days; modified at 16 Ill. Reg. 16680; amended at 16 Ill. Reg. 14565, effective September 8, 1992; amended at 16 Ill. Reg. 18767, effective November 27, 1992; amended at 17 Ill. Reg. 224, effective December 29, 1992; amended at 17 Ill. Reg. 6090, effective April 7, 1993; amended at 18 Ill. Reg. 609, effective February 1, 1994; emergency amendment at 18 Ill. Reg. 5348, effective March 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 13375, effective August 19, 1994; amended at 19 Ill. Reg. 9085, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10186, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12693, effective August 25, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16031, effective November 20, 1995; amended at 19 Ill. Reg. 16523, effective December 1, 1995; amended at 20 Ill. Reg. 1493, effective January 10, 1996; emergency amendment at 20 Ill. Reg. 5388, effective March 22, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8995, effective July 1, 1996; amended at 20 Ill. Reg. 10597, effective August 1, 1996; amended at 21 Ill. Reg. 887, effective January 10, 1997; amended at 21 Ill. Reg. 6183, effective May 15, 1997; amended at 21 Ill. Reg. 12418, effective September 1, 1997; amended at 22 Ill. Reg. 3415, effective February 1, 1998; amended at 23 Ill. Reg. 2496,

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effective February 1, 1999; amended at 23 Ill. Reg. 5642, effective May 1, 1999; amended at 26 Ill. Reg. 9668, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10829, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17358, effective November 25, 2002; emergency amendment at 28 Ill. Reg. 923, effective December 26, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 7611, effective May 21, 2004; emergency amendment at 30 Ill. Reg. 10117, effective June 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 11767, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 16281, effective September 29, 2006; amended at 30 Ill. Reg. 17756, effective October 26, 2006; amended at 32 Ill. Reg. 7588, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10940, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17929, effective November 10, 2008; amended at 32 Ill. Reg. 19912, effective December 12, 2008; amended at 33 Ill. Reg. 4830, effective March 23, 2009; amended at 34 Ill. Reg. 3448, effective March 8, 2010; emergency amendment at 34 Ill. Reg. 10854, effective July 15, 2010, for a maximum of 150 days; emergency expired December 11, 2010; emergency amendment at 34 Ill. Reg. 12224, effective August 4, 2010, for a maximum of 150 days; emergency expired December 31, 2010; amended at 35 Ill. Reg. 8919, effective June 2, 2011; emergency amendment at 35 Ill. Reg. 13936, effective July 28, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 20130, effective December 6, 2011; emergency amendment at 37 Ill. Reg. 11381, effective July 1, 2013, for a maximum of 150 days; emergency expired November 27, 2013; amended at 38 Ill. Reg. 5800, effective February 21, 2014; amended at 38 Ill. Reg. 14230, effective June 25, 2014; amended at 41 Ill. Reg. _____, effective _____.

SUBPART B: SERVICE DEFINITIONS

Section 240.237 Automated Medication Dispenser Service

- a) Service Description
 - 1) Automated Medication Dispenser (AMD) service is defined as a portable, mechanical system for individual use that can be programmed to dispense or alert the ~~individual participant~~ to take non-liquid oral medications through auditory, visual or voice reminders; to provide notification of a missed medication dose; and to provide 24 hour technical assistance for the AMD service in the ~~individual's participant's~~ residence. The service may include medication specific directions or reminders to take other types of medications such as liquid medications or injections based on individual need. The AMD unit is connected to a Department approved

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support center through a telephone line or wireless/cellular connection in the individual's participant's residence.

- 2) The purpose of the service is to provide eligible individuals participants with medication reminders to foster timely and safe administration of a complex medication schedule, thereby promoting independence and safety of all individuals the participants in their own residence, as well as reducing the need for nursing home care.
 - 3) The authorization to receive this service is determined by the care coordinator through a screening process set forth in Section 240.741, which requires the individual participant/authorized representative to designate a responsible party to manage the AMD unit and medications as set forth in Section 240.741.
 - 4) This service does not include medication management, oversight or handling of the individual's participant's medications.
 - 5) Provision of this service is contingent upon it being approved by the federal government as a State Medicaid Waiver service.
- b) Specific components of AMD service must include, at a minimum, the following:
- 1) an AMD unit installed in the individual's participant's residence with all connectors, parts and equipment necessary for installation, and adaptations for operation by individuals who have functional, hearing or visual impairments, or who exhibit language barriers.
 - 2) delivery of the AMD unit to the individual participant and installation of the unit into a functioning telephone or wireless/cellular system in the individual's participant's residence within 48 hours after the referral when the individual participant is at imminent risk of institutionalization and within 15 calendar days from the date of the referral in all other instances.
 - A) This timeline can be extended if requested by the individual participant/authorized representative/responsible party.
 - B) This service shall not be subcontracted and shall be provided by trained employees who will identify themselves by picture

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identification that can be verified by the individualparticipant/authorized representative.

- C) Delivery and installation of the AMD unit may include coordination of emergency home response service (see Section 240.235) for an individuala participant/authorized representative.
- 3) training for the individualparticipant/authorized representative and responsible party on the proper use of the AMD system at the time of installation and subsequently when needed. The training must include:
- A) demonstration of the use, general care and maintenance of the unit/equipment;
 - B) explanation of the AMD provider's services and notification processes;
 - C) instruction on any testing or monitoring required to assure the proper functioning of the AMD unit/equipment, including how to report any malfunctions; and
 - D) providing the individual with easy to understand written instructions in the use, general care and maintenance of the AMD unit/equipment. These instructions shall be available in options such as non-English languages, large print, Braille, and audible recordings to meet the individual's needs.
- 4) provision of verbal and written instructions that are easy to understand in the following areas:
- A) demonstration of the AMD unit and equipment, including, but not limited to:
 - i) activation, use and maintenance of the unit;
 - ii) programming the unit;
 - iii) filling the unit with medications;

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- iv) ~~sanitization and proper handling of medications that could cause medication poisoning or cross-contaminate other medications;~~
 - v) ~~message options;~~
 - vi) ~~early dose features;~~
 - vii) ~~locking features;~~
 - viii) ~~volume control;~~
 - ix) ~~manual requirements for operation;~~
 - x) ~~voice, text, buttons and flashing light features;~~
 - xi) ~~battery back-up systems in case of power failure;~~
 - xii) ~~HIPAA compliant (e.g., privacy protected and secure) methods of communicating with the support center and web-based systems, including toll free help lines and other language options, if needed;~~
 - xiii) ~~options for pick-up or return of the AMD equipment when no longer used;~~
 - xiv) ~~description of other troubleshooting interventions; and~~
 - xv) ~~explanation of how ongoing training needs are met.~~
- B) ~~explanation of the AMD provider's services, including how the participant and family member or other individuals designated as a responsible party for the unit may communicate through a HIPAA-compliant (e.g., privacy protected and secure) website, fax, or phone call to change the programming of medications, such as adding new medications, changing the schedule of medications or discontinuing medications.~~

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- ~~C)~~ ~~explanation of the notification process for missed medication doses; agreed mode of notification; and access to participant-specific information through other modalities, such as a HIPAA-compliant (e.g., privacy protected and secure) website, texts or phone calls or written reports.~~
- ~~D)~~ ~~provision of instructions on any testing or monitoring required to assure the proper functioning of the AMD equipment, including how to report a malfunction of the equipment.~~
- ~~E)~~ ~~provision of appropriate training adaptations for individuals who have functional, hearing or visual impairments, or who exhibit language barriers, i.e., instructions in large print, Braille, audible recordings or other languages to meet individual needs.~~
- 45) ensuring the individual participant/authorized representative reviews his or her responsible party designation at least every 6 months. Any changes in this designation must be sent to the Care Coordination Unit (CCU) within 5 calendar days from the date of execution of the responsible party change. If there is a change in designation, the AMD provider must complete new training as required under subsection (b)(3) within 7 calendar days from the date of execution of the responsible party change.
- 56) obtaining the signature of the individual participant/authorized representative and responsible party to verify that the AMD unit/equipment was delivered and installed and that instructions and demonstration were given and understood by the individual participant/authorized representative and responsible party, including acknowledgement of their responsibilities in managing medications, medication administration and oversight of medications and of the limited role of the Department in approving of and paying for the AMD service. A copy of this receipt and acknowledgment must be sent to and kept at the CCU.
- 67) ownership and operation of a support center to provide live monitoring on a continuous basis, notify the individual participant/authorized representative/responsible party of missed medication doses and provide necessary technical support for fault conditions, including a language line that provides interpreter service for at least 140 languages and

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communication facilitated by a teletypewriter (TTY) communication device for the deaf, as appropriate.

- ~~78~~) ownership and operation of a back-up support center that provides all components specified in subsection (b)(~~67~~) and that operates on a separate power grid.
- ~~89~~) maintaining adequate local staffing levels of qualified personnel to conduct and provide necessary administrative activities, installation, in-home training, unit/equipment monitoring, technical support, medication program changes and repair requests in a timely manner. An AMD provider must have a written training program for personnel and be able to demonstrate that its staff members are qualified and have passed background checks.
- ~~910~~) repairing or replacing the AMD unit/equipment within 24 hours after receiving a malfunction report.
- ~~1011~~) alerts to the individualparticipant/authorized representative and responsible party when electric power to the AMD unitequipment has been interrupted (e.g., unplugged) and the unit is operating on a standby power source.
- ~~1112~~) notification to the CCU within 1 business day after activation of the AMD unit and working with the appropriate care coordinator to resolve service complaints from the individualparticipant/authorized representative/responsible party.
- ~~1213~~) notification to the CCU within 2 calendar days if the AMD service cannot be initiated or must be terminated.
- ~~1314~~) maintaining records in accordance with Section 240.1544 relating to individualparticipant referral and service statistics, including unit/equipment delivery; unit activation and programming; individualparticipant/authorized representative and responsible party training; missed medication notifications and dispositions; other AMD unit/equipment monitoring and test transmission activity; unit/equipment malfunction, repair and replacement; power interruption alerts;

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notifications to the CCUs; billing and payment information; and personnel qualifications, training and background checks.

- ~~1415~~) making available individual reports on missed medication doses, power and battery status, and other reporting features on an ongoing basis to the responsible party and care coordinators via a HIPAA-compliant (e.g., privacy-protected and secure) website or other modality.
- ~~1516~~) providing access to individual and aggregate reports, ~~consumer satisfaction surveys~~, and AMD system performance measures on an ongoing basis to authorized persons through a HIPAA-compliant (e.g., privacy-protected and secure) website or other modality.
- ~~1617~~) providing ad hoc reports to the Department upon request.

c) Units of Service

- 1) One unit of installation service is the one-time fee to the AMD provider for the activity associated with the installation of the AMD unit/equipment in the ~~individual's participant's~~ residence and training of the ~~individual participant~~/authorized representative and responsible party.
- 2) One unit of monthly service is the fixed unit rate of reimbursement, per month, for the provider agency activity associated with providing the AMD service to each ~~individual participant~~.

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

SUBPART O: PROVIDERS

Section 240.1543 Minimum Equipment Specifications for Automated Medication Dispenser Service

- a) ~~An All~~ AMD unit/equipment must be capable of portability to be temporarily transferred to another non-institutional residence in Illinois without additional activation fees.
- b) AMD Unit Specifications

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- 1) The AMD unit must be a portable, ~~waterproof~~, mechanical system configured with:
 - A) all the cords and interfaces needed for installation;
 - B) an internal battery capable of operating as a power source for a minimum of 3 years;
 - C) a battery back-up that charges automatically when unit is powered and maintains a charge for at least 12 hours when the electric power to the AMD unit is interrupted;
 - D) a low battery charge signal;
 - E) components certified as appropriate by the Federal Communications Commission (FCC) under 47 CFR 15 and 68; and
 - F) appropriate Underwriters Laboratories (UL) safety standards (UL 60950 and 60950-1) certification for battery powered technology equipment.

- 2) The AMD unit must have the following operating features:
 - A) ability to be loaded, programmed and changed to add and remove prescriptions, including:
 - i) local or remote accessibility to the AMD unit in order to program it in accordance with physician orders for medication administration; the unit must allow medication to be dispensed at least 4 times a day; and
 - ii) to alert the ~~individual participant~~ at the times programmed for dispensing medication;
 - B) ability to be filled with medications by the responsible party, including:
 - i) holding at least 7 days' supply of prescription medications;

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- ii) holding ~~multiple~~^{8 or more different} medications in individual compartments;
 - iii) access to medication for an early dose option; and
 - iv) locking after the medication is loaded;
- C) ability to alert the ~~individual~~^{participant} when it is time to take medications at least every 5 to 10 minutes for at least 60 minutes until the dose is taken or the dose is locked, including:
- i) using verbal, auditory or visual prompts such as flashing lights and audible tones or verbal instructions, which may also provide messages to take medication that cannot be stored in the machine (e.g., take medications with food; time to take insulin) based on ~~the individual's~~^{participant's} needs; ~~and~~
 - ii) dispensing medications at the correct time of day in the correct combinations and in the correct quantities; ~~and~~
 - iii) ~~easy adjustment of the volume on auditory or verbal features;~~
- D) use of HIPAA-compliant (e.g., privacy-protected and secure) methods of communication with the ~~individual~~^{participant}/authorized representative/responsible party, including:
- i) notification when battery is low or unit is jammed, or if ~~the individual~~^{participant} has not taken the medication within 90 minutes after the prescribed time;
 - ii) contact by the unit or call center to the ~~individual~~^{participant}/authorized representative/responsible party to assure adherence or needed intervention; and

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- E) ability to securely transmit information and provide data to the [individual participant](#)/authorized representative/responsible party, the Department or its designees.
- 3) The AMD unit must be capable of conducting automatic battery testing and transmitting the results through the AMD unit to the support center on an ongoing basis.
 - 4) If an AMD unit is a Class I medical device, the AMD unit is subject to the General Controls mandated by the Federal Food and Drug Administration, including provisions that relate to adulteration (21 USC 351); misbranding (21 USC 352); device registration and listing (21 USC 360); notification, including repair, replacement, or refund (21 USC 360h); records and reports (21 USC 360i); and restricted devices (21 USC 520(e)). In addition, the manufacturer of the device must fulfill requirements under 21 CFR 820.180 (Record keeping) and 820.198 (Complaint files). If an AMD unit has enhanced features, such as remote capability, it may be classified as a Class II medical device and must then meet applicable Special Controls under the FDA.
 - 5) The AMD unit must have adaptations for operation by individuals who have functional, hearing or visual impairments, and language barriers at no extra cost to the [individual participant](#).
- c) AMD Unit Specifications
 - 1) The AMD unit must have:
 - A) an integrated unit that connects to either a rotary dial or touchtone telephone via a modular jack or wireless/cellular system that does not interfere with the normal use of the telephone or other devices using the telephone line, such as Emergency Home Response Service;
 - B) an Underwriters Laboratory (UL) approved plug as the connector to a standard residential electrical outlet for its power supply;
 - C) ~~the ability~~[an easily identifiable "ready" light](#) to verify whether the batteries on the base unit are charged;

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- D) a battery that automatically charges whenever the base unit is powered and that maintains a charge for at least 12 hours when the electric power to the base unit is interrupted; and
 - E) transmission capability to signal the support center or notify the participant/authorized representative/responsible party if the base unit battery fails or has a low charge, or electric power to the base unit is interrupted.;
 - ~~F) configuration that allows signaling services through more than one unit for more than one participant in a residence; and~~
 - ~~G) an easy method to control the volume of the unit.~~
- 2) The AMD unit must give both audible and visual technology and lighting cues to provide medication alerts.
 - 3) The AMD unit must provide repeated alerts or messages until the medication is taken, or until the time limit on reminders is met, at which time the dose is unable to be accessed by the individual~~transferred to a locked storage area~~ and the responsible party is notified of the missed medication dose.
- d) Support Center Specifications
- 1) The AMD support center must have back-up monitoring capacity to take over all medication dispenser notification functions, monitoring and technical support functions.
 - 2) The AMD back-up monitoring center must be at a location different from the primary center, on a different power grid system, and on a different telephone trunk line. It must have a back-up battery and electrical generating capacity, as well as telephone line and wireless/cellular system monitoring abilities. If the back-up center is in the same city as the support center, the AMD provider must provide assurances that back-up can be maintained in the event of a natural disaster.

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- 3) All AMD support center and back-up center equipment, at a minimum, must:
- A) monitor the AMD system for the receipt of incoming signals from an installed and programmed AMD units in an individual's participant's residence, including missed medication doses, power interruptions and outages, and test transmissions and fault conditions, on a continuous basis;
 - B) direct an appropriate response to the receipt of a signal immediately via texts/emails to the responsible party and call the responsible party within 90 minutes after missed medications and within 8 hours after power interruptions and outages;
 - C) provide technical support as required, 24 hours a day, 365 days a year;
 - D) identify each individual participant and simultaneously record all communication between the individual participant/authorized representative/responsible party and the support center, as applicable, for all signals, including missed medication doses, test transmissions and fault conditions;
 - E) display, print and archive the individual participant identifier, date, time, communication and response for each signal, test and fault condition, which must be maintained for at least a 3-year period of time for quality control and liability purposes;
 - F) have an uninterruptible power supply (UPS) back-up that will automatically take over system operation in the event electric power to the support center is interrupted, other type of malfunction occurs, or repairs are needed. The back-up power supply must be sufficient to operate the entire system for a minimum of 7 calendar days;
 - G) have separate and independent primary and back-up systems, computer servers, databases, and other components to provide an uninterruptible monitoring system in the event of equipment malfunction;

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- H) perform self-diagnostic testing for malfunctions in the unit/equipment in an individual's~~participant's~~ residence and at the support center, and for fault conditions in the primary and back-up operating systems and power supply at the support center, that could interfere with receiving and responding to signals, such as non-operational AMD units, messages sent from the AMD unit to the individual~~participant~~/authorized representative/responsible party without confirmation of receipt, telephone line outages, power loss, etc.;
- I) capability to centrally generate medication compliance data and reports as requested by the Department;
- J) have quality management systems that include tracking and trending of data, response times and dispositions; and
- K) maintain appropriate certification by the FCC under 47 CFR 15 and 68.

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

SUBPART S: PROVIDER RATES

Section 240.1955 Fixed Unit Rates of Reimbursement for Emergency Home Response Service

Emergency home response service (EHRS) providers executing a contractual agreement with the Department pursuant to Section 240.1600 shall be uniformly reimbursed for the provision of EHRS at fixed unit rates of reimbursement established by the Department. The reimbursable units of EHRS shall be as follows:

- a) **Installation and Removal**
The Department shall pay a one-time installation fee at a fixed unit reimbursement rate established by the Department for the installation of the base unit in the individual's~~participant's~~ home. The Department shall not pay any fee for expenses incurred by the EHRS provider if service could not be provided due to either the individual's~~participant's~~ absence or the individual's~~participant's~~

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refusal to admit the EHRS provider's employee into the home. The Department shall not pay any fee for removal of the base unit.

- b) **Monthly Service**
The Department shall pay a monthly service fee per individual participant at a fixed unit reimbursement rate established by the Department for providing EHRS to individuals participants. The Department shall not pay for the cost of maintaining telephone service for the individual participant or any associated charges or fees.
- c) ~~Rate for EHRS and Automated Medication Dispenser (AMD) Provided by the Same Provider:~~
- 1) ~~For individual participant households, the Department shall pay a single installation fee and a single monthly service fee for EHRS and AMD when these services are installed and provided at the same time, by the same provider.~~
 - 2) ~~For dual participant households when both participants are utilizing EHRS and AMD services, the Department shall pay a single installation fee, an AMD monthly service fee per participant, and a shared EHRS monthly service fee when these services are installed and provided at the same time, by the same provider.~~
- d) The rates will be reviewed annually, at a minimum, and adjustments may be made to conform to the appropriation, service requirements and/or changes in federal and State laws, regulations and/or rules affecting the service.
- e) In establishing the rates of reimbursement, the Department will comply with federal requirements for Medicaid waivers, which are described in the State Medicaid Plan maintained by HFS and posted on the HFS website. The Department will use a Request for Information process to obtain rate information from providers and then consider whether the resulting average is supported by the appropriation level for the program in light of trend analyses on use of the service and current market conditions. The goal is to ensure adequate provider participation and individual participant choice. The specific amount that the service provider will be reimbursed for a unit of service is reflected in the provider contract and is listed on the Department's website.

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- e) Upon written notification from the Department of a change in the rates of reimbursement, an AMD provider may exercise its 30 calendar day termination rights if the EHRS provider no longer wishes to provide services thereafter at the new rates of reimbursement.

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

Section 240.1957 Fixed Unit Rates of Reimbursement for Automated Medication Dispenser Service

Automated Medication Dispenser (AMD) service providers executing a contractual agreement with the Department pursuant to Section 240.1600 shall be uniformly reimbursed for the provision of AMD units at fixed unit rates of reimbursement established by the Department. The reimbursable units of AMD service shall be as follows:

- a) **Installation, Initial Training and Removal**
The Department shall pay a one-time installation fee at a fixed unit reimbursement rate established by the Department for the installation and initial training of the individual participant/authorized representative/responsible party of the AMD unit in the individual's participant's residence. The Department shall not pay any fee for expenses incurred by the AMD provider if service could not be provided due to either the individual's participant's absence or the individual's participant's refusal to admit the AMD provider's employee into the residence. The Department shall not pay any fee for removal of the AMD unit.
- b) **Monthly Service**
The Department shall pay a monthly service fee per individual participant at a fixed unit reimbursement rate established by the Department for providing AMD service which includes maintaining administrative and technical support to program machines; providing 24 hour technical assistance and additional training; signal monitoring, troubleshooting, machine maintenance, repair and replacement; notifications to the responsible party on missed medication doses and power outage; tracking and analyzing data; and providing reports as requested by the Department. The Department will not pay for the cost of maintaining telephone service for the individual participant or any associated charges or fees.
- e) ~~Rate for AMD and Emergency Home Response Services (EHRS) Provided by the Same Provider:~~

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- 1) ~~For individual participant households, the Department shall pay a single installation fee and a single monthly service fee for AMD and EHRS when these services are installed and provided at the same time, by the same provider.~~
 - 2) ~~For dual participant households when both participants are utilizing AMD and EHRS, the Department shall pay a single installation fee, an AMD monthly service fee per participant, and a shared EHRS monthly service fee when these services are installed and provided at the same time, by the same provider.~~
- ce) The rates will be reviewed annually, at a minimum, and adjustments may be made to conform to the appropriation, service requirements and/or changes in federal and State laws, regulations and/or rules affecting the service.
- de) In establishing the rates of reimbursement, the Department may consider any of the following factors:
- 1) appropriation levels;
 - 2) cost information provided by the providers; and/or
 - 3) current market conditions and trend analyses.
- ef) Upon written notification from the Department of a change in the rates of reimbursement, an AMD provider may exercise its 30 calendar day termination rights if the AMD provider no longer wishes to provide services thereafter at the new rates of reimbursement.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Intercountry Adoption Services
- 2) Code Citation: 89 Ill. Adm. Code 333
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
333.10	Repealed
333.20	Repealed
333.30	Repealed
333.40	Repealed
333.50	Repealed
333.60	Repealed
333.70	Repealed
333.80	Repealed
333.90	Repealed
333.Appendix A	Repealed
- 4) Statutory Authority: 225 ILCS 10
- 5) Effective Date of Repealer: March 8, 2017
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain an incorporation by reference? No
- 8) A copy of the adopted repealer, including material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed Repealer published in the *Illinois Register*: 40 Ill. Reg. 9308; July 15, 2016
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were needed.
- 13) Will this repealer replace an emergency rule currently in effect? No

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED REPEALER

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: This Part is being repealed. PA 99-49 amends the Adoption Act eliminating the Inter-Country Adoption Coordinator position and oversight from the Inter-Country adoption process for Illinois residents.
- 16) Information and questions regarding this adopted repealer shall be directed to:

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

217/524-1983
TTY: 217/524-3715
fax: 217/557-0692
cfpolicy@idcfs.state.il.us

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Number: 120.530 Adopted Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rule: March 8, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 14982; November 4, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking amends 89 Ill. Adm. Code 120.530 to expand the eligibility group for the Medically Fragile Technology Dependent 1915(c) waiver program to include clients who had been waiver participants before turning 21 years of age and are now 21 years of age or more.
- 16) Information and questions regarding this adopted rule shall be directed to:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

Mollie Zito
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 Adopted Amendment begins on the next page:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120

MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section

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

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section

120.60 Community Cases
120.61 Long Term Care
120.62 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings Under 89 Ill. Adm.
Code 140.643 (Repealed)
120.63 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings (Repealed)
120.64 Determination of Eligibility for Cases Subject to Modified Adjusted Gross

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- Income (MAGI) Methodology
120.65 Department of Mental Health and Developmental Disabilities (DMHDD)
Licensed Community – Integrated Living Arrangements (Repealed)
120.66 Healthy Start – Medicaid Presumptive Eligibility for Pregnant Women
120.67 Presumptive Eligibility for Children
120.68 Hospital Presumptive Eligibility (HPE) under the Affordable Care Act

SUBPART D: MEDICARE PREMIUMS

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

SUBPART E: RECIPIENT RESTRICTION PROGRAM

- Section
120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

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

SUBPART G: AID TO THE MEDICALLY INDIGENT

- Section
120.200 Elimination Of Aid To The Medically Indigent
120.208 Client Cooperation (Repealed)
120.210 Citizenship (Repealed)
120.211 Residence (Repealed)
120.212 Age (Repealed)
120.215 Relationship (Repealed)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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

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

Section	
120.308	Client Cooperation
120.309	Caretaker Relative
120.310	Citizenship
120.311	Residence
120.312	Age

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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120.313	Blind
120.314	Disabled
120.315	Relationship
120.316	Living Arrangements
120.317	Supplemental Payments
120.318	Institutional Status
120.319	Assignment of Rights to Medical Support and Collection of Payment
120.320	Cooperation in Establishing Paternity and Obtaining Medical Support
120.321	Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.322	Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.323	Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
120.324	Health Insurance Premium Payment (HIPP) Program
120.325	Health Insurance Premium Payment (HIPP) Pilot Program
120.326	Foster Care Program
120.327	Social Security Numbers
120.328	Compliance with Employment and Work Activity Requirements (Suspended; Repealed)
120.329	Compliance with Non-Economic Eligibility Requirements of Article IV (Suspended; Repealed)
120.330	Unearned Income
120.332	Budgeting Unearned Income
120.335	Exempt Unearned Income
120.336	Education Benefits
120.338	Incentive Allowance
120.340	Unearned Income In-Kind
120.342	Child Support and Spousal Maintenance Payments
120.345	Earmarked Income
120.346	Medicaid Qualifying Trusts
120.347	Treatment of Trusts and Annuities
120.350	Lump Sum Payments and Income Tax Refunds
120.355	Protected Income
120.360	Earned Income
120.361	Budgeting Earned Income
120.362	Exempt Earned Income
120.363	Earned Income Disregard – MANG(C)
120.364	Earned Income Exemption

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 120.366 Exclusion From Earned Income Exemption
120.370 Recognized Employment Expenses
120.371 Income From Work/Study/Training Programs
120.372 Earned Income From Self-Employment
120.373 Earned Income From Roomer and Boarder
120.375 Earned Income In-Kind
120.376 Payments from the Illinois Department of Children and Family Services
120.379 Provisions for the Prevention of Spousal Impoverishment
120.380 Resources
120.381 Exempt Resources
120.382 Resource Disregard
120.383 Deferral of Consideration of Assets
120.384 Spenddown of Resources
120.385 Factors Affecting Eligibility for Long Term Care Services
120.386 Property Transfers Occurring On or Before August 10, 1993
120.387 Property Transfers Occurring On or After August 11, 1993 and Before January 1, 2007
120.388 Property Transfers Occurring On or After January 1, 2007
120.390 Persons Who May Be Included In the Assistance Unit
120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later
120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
120.395 Payment Levels for MANG (Repealed)
120.399 Redetermination of Eligibility
120.400 Twelve Month Eligibility for Persons under Age 19

SUBPART I: SPECIAL PROGRAMS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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120.550 Asylum Applicants and Torture Victims

120.TABLE A Value of a Life Estate and Remainder Interest

120.TABLE B Life Expectancy (Repealed)

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

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

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amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988;

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emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill.

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Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; emergency rule suspended at 31 Ill. Reg. 16060, effective November 13, 2007; emergency rule repealed, effective May 10, 2008; preemptory amendment at 32 Ill. Reg. 7212, effective April 21, 2008; preemptory amendment suspended at 32 Ill. Reg. 8450, effective May 20, 2008; preemptory amendment repealed under Section 5-125

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of the Illinois Administrative Procedure Act, effective November 16, 2008; amended at 32 Ill. Reg. 17428, effective November 1, 2008; preemptory amendment at 32 Ill. Reg. 18889, effective November 18, 2008; preemptory amendment suspended at 32 Ill. Reg. 18906, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 6551, effective April 28, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 6712, effective April 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 1681, effective February 1, 2009; amended at 33 Ill. Reg. 2289, effective March 1, 2009; emergency amendment at 33 Ill. Reg. 5802, effective April 2, 2009, for a maximum of 150 days; emergency expired August 29, 2009; emergency amendment at 33 Ill. Reg. 10785, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 12703, effective September 7, 2009; amended at 33 Ill. Reg. 15707, effective November 2, 2009; amended at 33 Ill. Reg. 17070, effective December 2, 2009; amended at 34 Ill. Reg. 889, effective December 30, 2009; emergency rulemaking at 34 Ill. Reg. 13538, effective September 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 379, effective December 27, 2010; amended at 35 Ill. Reg. 979, effective January 1, 2011; amended at 35 Ill. Reg. 18645, effective January 1, 2012; amended at 36 Ill. Reg. 4133, effective March 1, 2012; amended at 36 Ill. Reg. 9095, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 10253, effective July 1, 2012 through June 30, 2013; amended at 36 Ill. Reg. 17044, effective November 26, 2012; emergency amendment at 36 Ill. Reg. 17549, effective December 3, 2012 through June 30, 2013; amended at 37 Ill. Reg. 10208, effective June 27, 2013; emergency amendment at 37 Ill. Reg. 15976, effective October 1, 2013, for a maximum of 150 days; emergency amendment to emergency rule at 38 Ill. Reg. 1139, effective January 1, 2014, for a maximum of 150 days; emergency amendment to emergency rule at 38 Ill. Reg. 2925, effective January 10, 2014, for a maximum of 150 days; emergency amendments effective January 1 and January 10, 2014 repealed by emergency rule at 38 Ill. Reg. 7368, effective March 24, 2014, for the remainder of the 150 day effective periods of each of the emergency rules; amended at 38 Ill. Reg. 5967, effective February 26, 2014; emergency amendment at 38 Ill. Reg. 7650, effective March 24, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 15646, effective July 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16214, effective July 17, 2014; amended at 38 Ill. Reg. 18432, effective August 19, 2014; amended at 38 Ill. Reg. 23595, effective December 2, 2014; amended at 39 Ill. Reg. 4376, effective March 11, 2015; amended at 40 Ill. Reg. 2784, effective January 20, 2016; amended at 40 Ill. Reg. 11174, effective August 2, 2016; amended at 41 Ill. Reg. 3279, effective March 8, 2017.

SUBPART I: SPECIAL PROGRAMS

Section 120.530 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons ~~Under Age 21~~

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- a) The Department shall administer a home and community-based service (HCBS) waiver program as set forth in [Sections 5-2\(7\) and 5-2.05\(a\) of the Public Aid Code \[305 ILCS 5\]/5-2\(7\) and 305 ILCS 5/5-2.05\(a\)](#) and pursuant to Section 1915(c) of the Social Security Act (42 USC 1396n(c)) for disabled persons ~~under the age of 21 years~~ who are medically fragile and technology dependent.
- b) A determination must be made that, except for the provision of in-home care, these individuals would require the level of care provided in a hospital or a skilled nursing facility.
- c) The Division of Specialized Care for Children (DSCC) shall perform operational functions under the HCBS waiver program pursuant to an interagency agreement with the Department.
- d) In addition to being eligible for all of the services set forth in 89 Ill. Adm. Code 140.3, individuals covered under the HCBS waiver are eligible for the following waiver services:
 - 1) Respite care;
 - 2) Environmental modifications;
 - 3) Special medical supplies and equipment;
 - 4) Medically supervised day care;
 - 5) Family and nurse training; and
 - 6) Maintenance counseling.
- e) The Department shall determine eligibility. An individual meeting the following criteria shall qualify:
 - 1) The individual is younger than 21 years of age [or was a waiver participant the day before turning 21 years of age](#);
 - 2) The individual is disabled as defined in Section 120.314;

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- 3) The individual scores a minimum of 50 points on the level of care screening described in subsection (h) ~~of this Section~~;
- 4) The estimated cost of the individual's in-home care to be paid by the State shall not be greater than the institutional level of care appropriate to the individual's medical needs (hospital or skilled nursing facility), as determined by the Department:
 - A) if the appropriate comparable institutional level of care for a ventilator dependent individual is a hospital, the greater of:
 - i) 125 percent of the Statewide average per diem expenditure for hospital care for the previous fiscal year; or
 - ii) 100 percent of the average per diem expenditure provided in the hospital from which the individual was placed; or
 - B) if the appropriate comparable institutional level of care for a non-ventilator dependent individual is a hospital, 125 percent of the Statewide average per diem expenditure for hospital care in the previous fiscal year; or
 - C) if the appropriate comparable institutional level of care for the individual is a skilled nursing facility:
 - i) the per diem rate of the geographically closest skilled nursing facility meeting the individual's medical needs; or
 - ii) if the individual requires exceptional care services the per diem rate will be a blended rate based on the private pay rate for the geographically closest skilled nursing facility meeting the individual's medical needs and the Statewide average rate for medical assistance clients requiring a similar level of care;
- 5) For children under 21 years of age, the ~~The~~ individual would be eligible for Medicaid if his or her responsible relative's income and resources were excluded from consideration; and

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- 6) A written plan of care has been developed and approved pursuant to subsection (f) ~~of this Section~~.
- f) Plan of Care
- 1) The Department shall determine the home and community-based services based on a written plan of care developed in consultation with the individual's family or guardian, attending physician and DSCC care coordinator.
 - 2) At a minimum, the plan of care shall identify an appropriate primary residence, describe the medical and other services to be furnished, the frequency of the services, the type of provider required to render the service and a description of the family's or guardian's active participation, to the fullest extent possible, as caregivers in meeting the individual's medical needs.
 - 3) The Department may, in its discretion, approve a cost-effective alternative to services in the plan of care, as long as the alternative services meet the medical needs of the individual.
 - 4) When determining the hours of care necessary to maintain the individual at home, consideration shall be given to the availability of other services, including direct care provided by ~~nonpaid non-paid~~ caregivers, such as, but not limited to, the individual's family or guardian, that can reasonably be expected to meet the medical needs of the individual.
 - 5) The Department will review the individual's plan of care to determine continued eligibility for participation in the waiver on the following schedule:
 - A) During the first 18 months of participation in the waiver, a review will be performed every six months.
 - B) After the first 18 months, a review will be performed every six months and, depending upon the individual's medical condition, the plan of care may be approved for a period not to exceed 12 months.

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- C) Based on the results of the Department's review, a new plan of care may be developed if warranted by a change in the individual's need for medical services or a change in the individual's home environment.
- g) Eligibility Denials or Terminations
- 1) An individual shall not be determined eligible for coverage under the waiver if:
- A) The individual requires institutionalization solely because of a severe mental or developmental impairment.
- B) The individual does not meet the minimum score required under subsection (e)(3)~~of this Section~~.
- 2) Termination of coverage under the waiver shall be initiated upon the occurrence of any of the following events:
- A) Failure of a family or guardian to cooperate with the Department, DSCC, or service providers in implementing a plan of care, if the Department determines that, as a result of that ~~noncooperation~~~~non-cooperation~~, a plan of care cannot be implemented or the health and well being of the individual could be jeopardized.
- B) Upon renewal for continued participation in the waiver, the individual does not meet the minimum score required under subsection (e)(3)~~of this Section~~.
- C) The individual does not require at least one of the services described under subsection (d).
- ~~D) The individual attains the age of 21 years of age.~~
- 3) A transition period of no more than 60 days, during which the individual will continue to receive services through the waiver, will be provided on terminations resulting from subsections (g)(2)(B) and (C)~~of this Section~~.
- h) DSCC shall perform a level of care screening for the waiver as follows:

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- 1) The level of care screening will be performed using a Department approved screening tool.
- 2) The level of care screening will be performed as follows:
 - A) On all new requests for admission to the waiver;
 - B) On all renewals for continued participation in the waiver; and
 - C) Whenever there is a significant change in the participant's status or care needs.
- 3) The level of care screening will consist of the following elements:
 - A) Technology needs will be screened to determine the risk of disability or death if the technology is lost, as well as the degree of skill for assessment and judgment needed to operate the technology; and
 - B) Medical fragility will be screened to determine the frequency and need for skilled care.

(Source: Amended at 41 Ill. Reg. 3279, effective March 8, 2017)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Adopted Actions:
140.80 Amendment
140.473 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].
- 5) Effective Date of Rules: March 8, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 14999; November 4, 2016 and 40 Ill. Reg. 15271; November 14, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Versions: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? Yes

<u>Sections:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citation:</u>
140.74	New Section	40 Ill. Reg. 15645; November 28, 2016
140.3	Amendment	40 Ill. Reg. 16464; December 30, 2016
140.400	Amendment	40 Ill. Reg. 16464; December 30, 2016
140.423	New Section	40 Ill. Reg. 16464; December 30, 2016
140.424	New Section	40 Ill. Reg. 16464; December 30, 2016

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140.20	Amendment	41 Ill. Reg. 3098; March 17, 2017
140.475	Amendment	41 Ill. Reg. 3098; March 17, 2017
140.481	Amendment	41 Ill. Reg. 3098; March 17, 2017

- 15) Summary and Purpose of Rulemaking: 140.80: This rulemaking implements the Affordable Care Act assessment adjustment increase to hospital assessments created by PA 99-516 effective July 1, 2016. Hospital payments were also created by PA 99-516.

140.473: This rulemaking amends 89 Ill. Adm. Code 140.473 to expand the eligibility group for the Medically Fragile Technology Dependent 1915(c) waiver program to include clients who had been waiver participants before turning 21 years of age and are now 21 years of age or more.

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

Mollie Zito
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 Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

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

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- Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion or Barring
- 140.20 Submittal of Claims
- 140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
- 140.22 Magnetic Tape Billings (Repealed)
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of Sanctioned Entities
- 140.35 False Reporting and Other Fraudulent Activities
- 140.40 Prior Approval for Medical Services or Items
- 140.41 Prior Approval in Cases of Emergency
- 140.42 Limitation on Prior Approval
- 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
- 140.44 Withholding of Payments Due to Fraud or Misrepresentation
- 140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible Allegation of Fraud or Failure to Cooperate
- 140.55 Electronic Data Interchange Service
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- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
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AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective

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November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and

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140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150

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days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill.

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Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency

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amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September

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20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill.

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Reg. 18323, effective November 12, 2008; preemptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg.

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

SUBPART C: PROVIDER ASSESSMENTS

Section 140.80 Hospital Provider Fund

- a) Purpose and Contents
 - 1) The Hospital Provider Fund (Fund) was created in the State Treasury on February 3, 2004 (see 305 ILCS 5/5A-8). Interest earned by the Fund shall be credited to the Fund. The Fund shall not be used to replace any funds appropriated to the Medicaid program by the General Assembly.
 - 2) The Fund is created for the purpose of receiving and disbursing monies in accordance with this Section and Article 5A of the Code.
 - 3) The Fund shall consist of:
 - A) All monies collected or received by the Department under subsection (b);

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- B) All federal matching funds received by the Department as a result of expenditures made by the Department that are attributable to monies deposited in the Fund;
 - C) Any interest or penalty levied in conjunction with the administration of the Fund;
 - D) Monies transferred from another fund in the State treasury;
 - E) All other monies received for the Fund from any other source, including interest earned on those monies.
- b) Provider Assessments
- 1) Subject to Sections 5A-3, 5A-10 and 5A-15 of the ~~Public Aid~~ Code, for State fiscal years 2009 through 2018, an annual assessment on inpatient services is imposed on each hospital provider in an amount equal to \$218.38 multiplied by the difference of the hospital's occupied bed days less the hospital's Medicare bed days; provided, however, the amount of \$218.38 shall be increased by a uniform percentage to generate an amount equal to 75% of the State share of the payments authorized under Section ~~5A-12-5~~ of the ~~Public Aid~~ Code, with that increase only taking effect upon the date that a State share for those payments is required under federal law. For the period of April through June 2015, the amount of \$218.38 used to calculate the assessment under this subsection (b)(1) shall be increased by a uniform percentage to generate \$20,250,000 in the aggregate for that period from all hospitals subject to the annual assessment under this Section. For State fiscal years 2009 and after, a hospital's occupied bed days and Medicare bed days shall be determined using the most recent data available from each hospital's 2005 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on December 31, 2006, without regard to any subsequent adjustments or changes to such data. If a hospital's 2005 Medicare cost report is not contained in the Healthcare Cost Report Information System, then the Department may obtain the hospital provider's occupied bed days and Medicare bed days from any source available, including, but not limited to, records maintained by the hospital

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provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.

- 2) In addition to any other assessments imposed under this Section, effective July 1, 2016 and semiannually thereafter through June 2018, in addition to any federally required State share as authorized under subsection (b)(1), the amount of \$218.38 shall be increased by a uniform percentage to generate an amount equal to 75% of the ACA Assessment Adjustment, as defined in subsection (l)(1).
- 3) Subject to Sections 5A-3, 5A-10, and 5A-15 of the ~~Public Aid~~ Code for the portion of State fiscal year 2012 beginning June 10, 2012 through June 30, 2012, and for State fiscal years 2013 through 2018, an annual assessment on outpatient services is imposed on each hospital provider in an amount equal to .008766 multiplied by the hospital's outpatient gross revenue; provided, however, the multiplier of .008766 shall be increased by a uniform percentage to generate an amount equal to 25% of the State share of the payments authorized under Section ~~5A-12-5~~, with that increase only taking effect upon the date that a State share for those payments is required under federal law. For the period of April through June 2015, the amount of .008766 used to calculate the assessment under this subsection (b)(~~32~~) shall be increased by a uniform percentage to generate \$6,750,000 in the aggregate for that period from all hospitals subject to the annual assessment under this Section. For the portion of State fiscal year 2012 beginning June 10, 2012 through June 30, 2012 and for State fiscal years 2013 through 2018, a hospital's outpatient gross revenue shall be determined using the most recent data available from each hospital's 2009 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on June 30, 2011, without regard to any subsequent adjustments or changes to that data. If a hospital's 2009 Medicare cost report is not contained in the Healthcare Cost Report Information System, then the Department may obtain the hospital provider's outpatient gross revenue from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees. For the period beginning June 10, 2012 through June 30, 2012, the annual assessment on outpatient services shall be prorated by multiplying the assessment amount by a fraction, the numerator of which is 21 days and

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the denominator of which is 365 days.

- 4) In addition to any other assessments imposed under Article 5A of the Code, effective July 1, 2016 and semiannually thereafter through June 2018, in addition to any federally required State share as authorized under subsection (b)(3), the amount of .008766 shall be increased by a uniform percentage to generate an amount equal to 25% of the ACA Assessment Adjustment, as defined in subsection (1)(1).
- 5) Final Reconciliation
 - A) The Department shall complete and apply a final reconciliation of the ACA Assessment Adjustment described in subsections (b)(2) and (b)(4) prior to June 30, 2018 to account for:
 - i) any differences between the actual payments issued or scheduled to be issued prior to June 30, 2018 as authorized in Section 5A-12.5 of the Code for the period of January 1, 2018 through June 30, 2018 and the estimated payments due and payable in the month of October 2017 multiplied by 6 as described in subsection (1)(1)(D); and
 - ii) any difference between the estimated fee-for-service payments under Section 5A-12.5(b) of the Code and the amount of those payments that are actually scheduled to be paid.
 - B) The Department shall notify hospitals of any additional amounts owed or reduction credits to be applied to the June 2018 ACA Assessment Adjustment. This is to be considered the final reconciliation for the ACA Assessment Adjustment.
 - C) Notwithstanding any other provision of this Section, if, for any reason, the scheduled payments under Section 5A-12.5(b) of the Code are not issued in full by the final day of the period authorized under that statute, funds collected from each hospital pursuant to subsections (1)(1)(D) and (b)(5)(A), attributable to the scheduled payments authorized under Section 5A-12.5(b) of the Code that are

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not issued in full by the final day of the period attributable to each payment authorized under that statute, shall be refunded.

6) The increases authorized under subsections (b)(2) and (b)(4) shall be limited to the federally required State share of the total payments authorized under Section 5A-12.5 of the Code if the sum of those payments yields an annualized amount equal to or less than \$450,000,000, or if the adjustments authorized under Section 5A-12.2(t) of the Code are found not to be actuarially sound; however, this limitation shall not apply to the fee-for-service payments described in Section 5A-12.5 of the Code.

c) Payment of Assessment Due

- 1) The inpatient assessment imposed by Section 5A-2 of the Code for State fiscal year 2009 and each subsequent State fiscal year shall be due and payable in monthly installments, each equaling one-twelfth of the assessment for the year, on the 14th State business day of each month. No installment payments of an inpatient assessment shall be due and payable, however, until after the Comptroller has issued the payments required under Section 5A-12.2 of the Code. Assessment payments postmarked on the due date will be considered as paid on time.
- 2) Except as provided in Section 5A-4(a-5) of the Code, the outpatient assessment imposed by subsection (b)(~~32~~) of this Section for the portion of State fiscal year 2012 beginning June 10, 2012 through June 30, 2012, and for State fiscal year 2013 and each subsequent State fiscal year, shall be due and payable in monthly installments, each equaling one-twelfth of the assessment for the year, on the 14th State business day of each month.
 - A) No installment payment of an outpatient assessment imposed by subsection (b)(~~32~~) shall be due and payable, however, until after:
 - i) the Department notifies the hospital provider, in writing, that the payment methodologies to hospitals required under Section 5A-12.4 of the Code have been approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services (CMMS), and the waiver under 42 CFR 433.68 for the assessment imposed by subsection (b) of this Section, if necessary, has

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been granted by CMMS; and

- ii) the Comptroller has issued the payments required under Section 5A-12.4 of the Code.
- B) Assessment payments postmarked on the due date will be considered as paid on time. Upon notification to the Department of approval of the payment methodologies required under Section 5A-12.4 of the Code and the waiver granted under 42 CFR 433.68, if necessary, all installments otherwise due under subsection (b)(~~32~~) of this Section prior to the date of notification shall be due and payable to the Department upon written direction from the Department and issuance by the Comptroller of the payments required under Section 5A-12.4 of the Code.
- 3) Any assessment amount that is due and payable to the Department more frequently than once per calendar quarter shall be remitted to the Department by the hospital provider by means of electronic funds transfer. The Department may provide for remittance by other means if the amount due is less than \$10,000 or electronic funds transfer is unavailable for this purpose.
 - 4) All payments received by the Department shall be credited first to unpaid installment amounts (rather than to penalty or interest), beginning with the most delinquent installments.
- d) Notice Requirements, Penalty, and Maintenance of Records
- 1) The Department shall send a notice of assessment to every hospital provider subject to an assessment under subsection (b), except that no notice shall be sent for the outpatient assessment imposed under subsection (b)(~~32~~) until the Department receives written notice that the payment methodologies to hospitals required under Section 5A-12.4 of the Code has been approved and the waiver under 42 CFR 433.68, if necessary, has been granted by CMMS.
 - 2) If a hospital provider conducts, operates, or maintains more than one hospital licensed by the Illinois Department of Public Health, a separate notice shall be sent for each hospital.

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- e) Procedure for Partial Year Reporting/Operating Adjustments
- 1) Cessation of business during the fiscal year in which the assessment is being paid. If a hospital provider ceases to conduct, operate, or maintain a hospital for which the person is subject to assessment under subsection (b), the assessment for the State fiscal year in which the cessation occurs shall be adjusted by multiplying the assessment computed under subsection (d) by a fraction, the numerator of which is the number of days in the year during which the provider conducts, operates, or maintains the hospital and the denominator of which is 365. Immediately upon ceasing to conduct, operate or maintain a hospital, the person shall pay the assessment for the year as adjusted (to the extent not previously paid).
 - 2) Commencing of business during the fiscal year in which the assessment is being paid. A hospital provider who commences conducting, operating, or maintaining a hospital for which the person is subject to assessment under subsection (b), upon notice by the Department, shall pay the assessment under subsection (d) as computed by the Department in installments on the due dates stated on the notices and on the regular installment due dates for the State fiscal year occurring after the due date of the initial assessment notice. For State fiscal years 2009 through 2018, in the case of a hospital provider that did not conduct, operate or maintain a hospital in 2005, the inpatient assessment for that State fiscal year shall be computed on the basis of hypothetical occupied bed days for the full calendar year as determined by the Department. For the portion of State fiscal year 2012 beginning June 10, 2012 through June 30, 2012, and for State fiscal years 2013 through 2018, in the case of a hospital provider that did not conduct, operate or maintain a hospital in 2009, the outpatient assessment imposed under subsection (b)(32) shall be computed on the basis of hypothetical gross outpatient revenue for the full calendar year as determined by the Department. The assessment determination made by the Department is final.
 - 3) Partial Calendar Year Operation Adjustment. For a hospital provider that did not conduct, operate, or maintain a hospital throughout the entire calendar year reporting period, the assessment for the State fiscal year shall be annualized for the portion of the reporting period the hospital was operational (dividing the assessment due by the number of days the

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hospital was in operation and then multiplying the amount by 365). Information reported by a prior provider from the same hospital during the calendar year shall be used in the annualization equation, if available.

- 4) Change in Ownership and/or Operators. The full quarterly installment must be paid on the designated due dates regardless of changes in ownership or operators. Liability for the payment of the assessment amount (including past due assessments and any interest or penalties that may have accrued against the amount) rests on the hospital provider currently operating or maintaining the hospital regardless if these amounts were incurred by the current owner or were incurred by previous owners. Collection of delinquent assessment fees from previous providers will be made against the current provider. Failure of the current provider to pay any outstanding assessment liabilities incurred by previous providers shall result in the application of penalties described in subsection (f)(1).
- f) Penalties
- 1) Any hospital that fails to pay the full amount of an installment when due shall be charged, unless waived by the Department for reasonable cause, a penalty equal to 5% of the amount of the installment not paid on or before the due date, plus 5% of the portion remaining unpaid on the last day of each monthly period thereafter, not to exceed 100% of the installment amount not paid on or before the due date. Waiver due to reasonable cause may include but is not limited to:
 - A) provider has not been delinquent on payment of an assessment due, within the last three calendar years from the time the delinquency occurs.
 - B) provider can demonstrate to the Department's satisfaction that a payment was made prior to the due date.
 - C) provider is a new owner/operator and the late payment occurred in the quarter in which the new owner/operator assumed control of the facility.
 - 2) Within 30 days after the due date, the Department may begin recovery actions against delinquent hospitals participating in the Medicaid Program.

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Payments may be withheld from the hospital until the entire assessment, including any interest and penalties, is satisfied or until a reasonable repayment schedule has been approved by the Department. If a reasonable agreement cannot be reached or if a hospital fails to comply with an agreement, the Department reserves the right to recover any outstanding provider assessment, interest and penalty by recouping the amount or a portion thereof from the hospital's future payments from the Department. The provider may appeal this recoupment in accordance with the Department's rules at 89 Ill. Adm. Code 104. The Department has the right to continue recoupment during the appeal process. Penalties pursuant to subsection (f)(1) will continue to accrue during the recoupment process. Recoupment proceedings against the same hospital two times in a fiscal year may be cause for termination from the Medicaid Program. Failure by the Department to initiate recoupment activities within 30 days shall not reduce the provider's liabilities nor shall it preclude the Department from taking action at a later date.

- 3) If the hospital does not participate in the Medicaid Program, or is no longer doing business with the Department, or the Department cannot recover the full amount due through the claims processing system, within three months after the fee due date, the Department may begin legal action to recover the monies, including penalties and interest owed, plus court costs.

g) Delayed Payment – Groups of Hospitals

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

- 1) The State delays payments to hospitals due to problems related to State cash flow; or
- 2) A cash flow bond pool's, or any other group financing plans', requests from providers for loans are in excess of its scheduled proceeds such that a significant number of hospitals will be unable to obtain a loan to pay the assessment.

h) Delayed Payment – Individual Hospitals

In addition to the provisions of subsection (g), the Department may delay

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assessments for individual hospitals that are unable to make timely payments under this Section due to financial difficulties. No delayed payment arrangements shall extend beyond the last business day of the calendar quarter following the quarter in which the assessment was to have been received by the Department as described in subsection (c). The request must be received by the Department prior to the due date of the assessment.

- 1) Criteria. Delayed payment provisions may be instituted only under extraordinary circumstances. Delayed payment provisions may be made only to qualified hospitals who meet all of the following requirements:
 - A) The provider has experienced an emergency that necessitates institution of delayed payment provisions. Emergency in this instance is defined as a circumstance under which institution of the payment and penalty provisions described in subsections (c)(1), (c)(2), (f)(1) and (f)(2) would impose severe and irreparable harm to the clients served. Circumstances that may create these emergencies include, but are not limited to, the following:
 - i) Department system errors (either automated system or clerical) that have precluded payments, or that have caused erroneous payments such that the provider's ability to provide further services to clients is severely impaired;
 - ii) Cash flow problems encountered by a provider that are unrelated to Department technical system problems and that result in extensive financial problems to a facility, adversely impacting on its ability to serve its clients.
 - B) The provider serves a significant number of clients under the medical assistance program. "Significant" in this instance means:
 - i) A hospital that serves a significant number of clients under the medical assistance program; significant in this instance means that the hospital qualifies as a disproportionate share hospital (DSH) under 89 Ill. Adm. Code 148.120(a)(1) through 148.120(a)(2); or qualifies as a Medicare DSH hospital under the current federal guidelines.

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- ii) A government-owned facility that meets the cash flow criterion under subsection (h)(1)(A)(ii).
 - iii) A hospital that has filed for Chapter 11 bankruptcy and that meets the cash flow criterion under subsection (h)(1)(A)(ii).
- C) The provider must ensure that a delay of payment request, as defined under subsection (h)(3)(A), is received by the Department prior to the payment due date, and the request must include a Cash Position Statement that is based upon current assets, current liabilities and other data for a date that is less than 60 days prior to the date of filing. Any liabilities payable to owners or related parties must not be reported as current liabilities on the Cash Position Statement. A deferral of assessment payments will be denied if any of the following criteria are met:
- i) The ratio of current assets divided by current liabilities is greater than 2.0.
 - ii) Cash, short term investments and long term investments equal or exceed the total of accrued wages payable and the assessment payment. Long term investments that are unavailable for expenditure for current operations due to donor restrictions or contractual requirements will not be used in this calculation.
- D) The provider must show evidence of denial of an application to borrow assessment funds through a cash flow bond pool or financial institutions such as a commercial bank. The denial must be 90 days old or less.
- E) The provider must sign an agreement with the Department that specifies the terms and conditions of the delayed payment provisions. The agreement shall contain the following provisions:
- i) Specific reasons for institution of the delayed payment provisions;
 - ii) Specific dates on which payments must be received and the

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amount of payment that must be received on each specific date described;

- iii) The interest or a statement of interest waiver as described in subsection (h)(5) that shall be due from the provider as a result of institution of the delayed payment provisions;
 - iv) A certification stating that, should the entity be sold, the new owners will be made aware of the liability and any agreement selling the entity will include provisions that the new owners will assume responsibility for repaying the debt to the Department according to the original agreement;
 - v) A certification stating that all information submitted to the Department in support of the delayed payment request is true and accurate to the best of the signator's knowledge; and
 - vi) Other terms and conditions that may be required by the Department.
- 2) A hospital that does not meet the above criteria may request a delayed payment schedule. The Department may approve the request, notwithstanding the hospital not meeting the above criteria, upon a sufficient showing of financial difficulties and good cause by the hospital. If the request for a delayed payment schedule is approved, all other conditions of this subsection (h) shall apply.
- 3) Approval Process
- A) In order to receive consideration for delayed payment provisions, providers must ensure their request is received by the Department prior to the payment due date, in writing (telefax requests are acceptable) to the Bureau of Hospital and Provider Services. The request must be received by the date designated by the Department. Providers will be notified, in writing, as to the due dates for submitting delay of payment requests. Requests must be complete and contain all required information before they are considered to have met the time requirements for filing a delayed

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payment request. All telefax requests must be followed up with original written requests, postmarked no later than the date of the telefax. The request must include:

- i) An explanation of the circumstances creating the need for the delayed payment provisions;
 - ii) Supportive documentation to substantiate the emergency nature of the request including a cash position statement as defined in subsection (h)(1)(C), a denial of application to borrow the assessment as defined in subsection (h)(1)(D) and an explanation of the risk of irreparable harm to the clients; and
 - iii) Specification of the specific arrangements requested by the provider.
- B) The hospital shall be notified by the Department, in writing prior to the assessment due date, of the Department's decision with regard to the request for institution of delayed payment provisions. An agreement shall be issued to the provider for all approved requests. The agreement must be signed by the administrator, owner, chief executive officer or other authorized representative and be received by the Department prior to the first scheduled payment date listed in such agreement.
- 4) Waiver of Penalties. The penalties described in subsections (f)(1) and (f)(2) may be waived upon approval of the provider's request for institution of delayed payment provisions. In the event a provider's request for institution of delayed payment provisions is approved and the Department has received the signed agreement in accordance with subsection (h)(3)(B), the penalties shall be permanently waived for the subject quarter unless the provider fails to meet all of the terms and conditions of the agreement. In the event the provider fails to meet all of the terms and conditions of the agreement, the agreement shall be considered null and void and the penalties shall be fully reinstated.
 - 5) Interest. The delayed payments shall include interest at a rate not to exceed the State of Illinois borrowing rate. The applicable interest rate

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shall be identified in the agreement described in subsection (h)(1)(E). The interest may be waived by the Department if the facility's current ratio, as described in subsection (h)(1)(C), is 1.5 or less and the hospital meets the criteria in subsections (h)(1)(A) and (B). Any waivers granted shall be expressly identified in the agreement described in subsection (h)(1)(E).

- 6) Subsequent Delayed Payment Arrangements. Once a provider has requested and received approval for delayed payment arrangements, the provider shall not receive approval for subsequent delayed payment arrangements until such time as the terms and conditions of any current delayed payment agreement have been satisfied or unless the provider is in full compliance with the terms of the current delayed payment agreement. The waiver of penalties described in subsection (h)(4) shall not apply to a provider that has not satisfied the terms and conditions of any current delayed payment agreement.
- i) Administration and Enforcement Provisions
The Department shall establish and maintain a listing of all hospital providers appearing in the licensing records of the Department of Public Health, which shall show each provider's name and principal place of business and the name and address of each hospital operated, conducted, or maintained by the provider in this State. The Department shall administer and enforce Sections 5A-1, 2, 3, 4, 5, 7, 8, 10 and 12 of the Code and collect the assessments and penalty assessments imposed under Sections 5A-2 and 4 of the Code. The Department, its Director, and every hospital provider subject to assessment measured by occupied bed days shall have the following powers, duties and rights:
 - 1) The Department may initiate either administrative or judicial proceedings, or both, to enforce the provisions of Sections 5A-1, 2, 3, 4, 5, 7, 8, 10 and 12 of the Code. Administrative enforcement proceedings initiated shall be governed by the Department's rules at 89 Ill. Adm. Code 104.200 through 104.330. Judicial enforcement proceedings initiated shall be governed by the rules of procedure applicable in the courts of this State.
 - 2) No proceedings for collection, refund, credit, or other adjustment of an assessment amount shall be issued more than three years after the due date of the assessment, except in the case of an extended period agreed to in writing by the Department and the hospital provider before the expiration of this limitation period.

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- 3) Any unpaid assessment under Section 5A-2 of the Code shall become a lien upon the assets of the hospital upon which it was assessed. If any hospital provider, outside the usual course of its business, sells or transfers the major part of any one or more of the real property and improvements, the machinery and equipment, or the furniture or fixtures of any hospital that is subject to the provisions of Sections 5A-1, 2, 3, 4, 5, 7, 8, 10 and 12 of the Code, the seller or transferor shall pay the Department the amount of any assessment, assessment penalty, and interest (if any) due from it under Sections 5A-2 and 4 of the Code up to the date of the sale or transfer. If the seller or transferor fails to pay any assessment, assessment penalty, and interest (if any) due, the purchaser or transferee of the asset shall be liable for the amount of the assessment, penalties and interest (if any) up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The purchaser or transferee shall continue to be liable until the purchaser or transferee pays the full amount of the assessment, penalties, and interest (if any) up to the amount of the reasonable value of the property acquired by the purchaser or transferee or until the purchaser or transferee receives from the Department a certificate showing that the assessment, penalty and interest have been paid or a certificate from the Department showing that no assessment, penalty or interest is due from the seller or transferor under Sections 5A-2, 4 and 5 of the Code.
 - 4) Payments under Section 5A-4 of the Code are not subject to the Illinois Prompt Payment Act [30 ILCS 540]. Credits or refunds shall not bear interest.
 - 5) In addition to any other remedy provided for and without sending a notice of assessment liability, the Department may collect an unpaid assessment by withholding, as payment of the assessment, reimbursements or other amounts otherwise payable by the Department to the hospital provider.
- j) Exemptions
The following classes of providers are exempt from the assessment imposed under Section 5A-4 of the Code unless the exemption is adjudged to be unconstitutional or otherwise invalid:
- 1) A hospital provider that is a State agency, a State university, or a county

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with a population of 3,000,000 or more.

- 2) A hospital provider that is a county with a population of less than 3,000,000 or a township, municipality, hospital district, or any other local governmental unit.
- k) Nothing in Section 5A-4 of the Code shall be construed to prevent the Department from collecting all amounts due under this Section pursuant to an assessment imposed before February 3, 2004.
- l) Definitions
As used in this Section, unless the context requires otherwise:
 - 1) "ACA Assessment Adjustment" means:
 - A) For the period of July 1, 2016 through December 31, 2016, the product of .19125 multiplied by the sum of the fee-for-service payments to hospitals authorized under Section 5A-12.5 of the Code and the adjustments authorized under Section 5A-12.2(t) of the Code to managed care organizations for hospital services due and payable in the month of April 2016 multiplied by 6.
 - B) For the period of January 1, 2017 through June 30, 2017, the product of .19125 multiplied by the sum of the fee-for-service payments to hospitals authorized under Section 5A-12.5 of the Code and the adjustments authorized under Section 5A-12.2(t) to managed care organizations for hospital services due and payable in the month of October 2016 multiplied by 6, except that the amount calculated under this subsection (l)(1)(B) shall be adjusted, either positively or negatively, to account for the difference between the actual payments issued under Code Section 5A-12.5 for the period beginning July 1, 2016 through December 31, 2016 and the estimated payments due and payable in the month of April 2016 multiplied by 6 as described in subsection (l)(1)(A).
 - C) For the period of July 1, 2017 through December 31, 2017, the product of .19125 multiplied by the sum of the fee-for-service payments to hospitals authorized under Section 5A-12.5 of the Code and the adjustments authorized under Section 5A-12.2(t) of

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the Code to managed care organizations for hospital services due and payable in the month of April 2017 multiplied by 6, except that the amount calculated under this subsection (l)(1)(C) shall be adjusted, either positively or negatively, to account for the difference between the actual payments issued under Code Section 5A-12.5 for the period beginning January 1, 2017 through June 30, 2017 and the estimated payments due and payable in the month of October 2016 multiplied by 6 as described in subsection (l)(1)(B).

- D) For the period of January 1, 2018 through June 30, 2018, the product of .19125 multiplied by the sum of the fee-for-service payments to hospitals authorized under Section 5A-12.5 of the Code and the adjustments authorized under Section 5A-12.2(t) of the Code to managed care organizations for hospital services due and payable in the month of October 2017 multiplied by 6, except that:
- i) the amount calculated under this subsection (l)(1)(D) shall be adjusted, either positively or negatively, to account for the difference between the actual payments issued under Code Section 5A-12.5 for the period of July 1, 2017 through December 31, 2017 and the estimated payments due and payable in the month of April 2017 multiplied by 6 as described in subsection (l)(1)(C); and
 - ii) the amount calculated under this subsection (l)(1)(D) shall be adjusted to include the product of .19125 multiplied by the sum of the fee-for-service payments, if any, estimated to be paid to hospitals under Section 5A-12.5(b) of the Code.
- 2) "CMMS" means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.
- 32) "Department" means the Illinois Department of Healthcare and Family Services.
- 43) "Fund" means the Hospital Provider Fund.

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- 54) "HCRIS" means the federal Centers for Medicare and Medicaid Services Healthcare Cost Report Information System.
- 65) "Hospital" means an institution, place, building, or agency located in this State that is subject to licensure by the Illinois Department of Public Health under the Hospital Licensing Act, whether public or private and whether organized for profit or not-for-profit.
- 76) "Hospital Provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital, regardless of whether the person is a Medicaid provider. For purposes of this definition, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.
- 87) "Inpatient Gross Revenue" means total inpatient gross revenue, as reported on the HCRIS Worksheet C, Part 1, Column 6, Line 101, less the sum of the following lines (including any subset lines of these lines):
- A) Line 34: Skilled Nursing Facility.
 - B) Line 35: Other Nursing Facility.
 - C) Line 35.01: Intermediate Care Facility for the Mentally Retarded.
 - D) Line 36: Other Long Term Care.
 - E) Line 45: PBC Clinical Laboratory Services – Program Only.
 - F) Line 60: Clinic.
 - G) Line 63: Other Outpatient Services.
 - H) Line 64: Home Program Dialysis.
 - I) Line 65: Ambulance Services.

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- J) Line 66: Durable Medical Equipment – Rented.
 - K) Line 67: Durable Medical Equipment – Sold.
 - L) Line 68: Other Reimbursable.
- 98) "Medicare Bed Days" means, for each hospital, the sum of the number of days that each bed was occupied by a patient who was covered by Title XVIII of the Social Security Act, excluding days attributable to the routine services provided to persons receiving skilled or intermediate long term care services. Medicare bed days shall be computed separately for each hospital operated or maintained by a hospital provider.
- 109) "Medicare Gross Inpatient Revenue" means the sum of the following:
- A) The sum of the following lines from the HCRIS Worksheet D-4, Column 2 (excluding the Medicare gross revenue attributable to the routine services provided to patients in a psychiatric hospital, a rehabilitation hospital, a distinct part psychiatric unit, a distinct part rehabilitation unit or swing beds):
 - i) Line 25: Adults and Pediatrics.
 - ii) Line 26: Intensive Care Unit.
 - iii) Line 27: Coronary Care Unit.
 - iv) Line 28: Burn Intensive Care Unit.
 - v) Line 29: Surgical Intensive Care Unit.
 - vi) Line 30: Other Special Care Unit.
 - B) From Worksheet D-4, Column 2, the amount from Line 103 less the sum of Lines 60, 63, 64, 66, 67 and 68 (and any subset lines of these lines).
 - C) The amount from Worksheet D-6, Part 3, Column 3, Line 53.

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- ~~11+0~~) "Medicare Gross Outpatient Revenue" means the amount from the HCRIS Worksheet D, Part V, Line 101, Columns 5, 5.01, 5.02, 5.03 and 5.04 less the sum of Lines 45, 60, 63, 64, 65, 66 and 67 (and any subset lines of these lines).
- ~~12+1~~) "Occupied Bed Days" means the sum of the number of days that each bed was occupied by a patient for all beds, excluding beds classified as long term care beds and assessed a licensed bed fee during calendar year 2001. Occupied bed days shall be computed separately for each hospital operated or maintained by a hospital provider.
- ~~13+2~~) "Outpatient Gross Revenue" means, for each hospital, its total gross charges attributed to outpatient services as reported on the Medicare cost report at Worksheet C, Part I, Column 7, Line 101 less the sum of lines 45, 60, 63, 64, 65, 66, 67 and 68 (and any subset lines of these lines).

(Source: Amended at 41 Ill. Reg. 3296, effective March 8, 2017)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.473 Prior Approval for Home Health Care Services

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

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- d) Prior approval is required for all in-home shift nursing for ~~individuals~~ ~~children~~ who are under 21 years of age or who receive services under the Illinois Home and Community-Based Services Waiver for Persons who are Medically Fragile, Technology Dependent (MFTD Waiver). The decision to approve or deny a request for prior approval will be made within 21 days after the date the request is received or within 21 days after receipt of additional information, whichever occurs later. Review of services for ~~individuals~~ ~~children~~ eligible for in-home shift nursing under the MFTD Waiver ~~Illinois Home and Community-Based Services Waiver for Medically Fragile, Technology Dependent Children~~ will be made in accordance with 89 Ill. Adm. Code 120.530.
- e) Approval will be granted when, in the judgment of a consulting physician and subject to the review of the professional staff of the Department, the services are medically necessary and appropriate to meet the participant's medical needs.

(Source: Amended at 41 Ill. Reg. 3296, effective March 8, 2017)

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- 1) Heading of the Part: Child Support Services
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
160.5	Amendment
160.60	Amendment
160.61	Amendment
160.70	Amendment
160.75	Amendment
160.88	Amendment
160.200	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].
- 5) Effective Date of Rules: March 7, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 5256; April 1, 2016
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences Between Proposal and Final Version: In Section 160.75, the Department added language stating that it shall, after finding a willful failure to comply, fine an employer and that this subsection will be implemented by January 1, 2019.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: The amendments make changes to the following Sections of 89 IAC Part 160:

160.5 – Amends the rule to reflect PA 99-90 (SB 57) which introduces a new term "supporting parent" to refer to the parent obligated to pay support to the other parent. The definition of "responsible relative" is amended to incorporate "supporting parent".

160.60 – Amends rule to reflect PA 98-961 (SB 3231) which amends the provisions of the Illinois Marriage and Dissolution of Marriage Act concerning maintenance. Also adds language providing that the court shall first determine whether a maintenance award is appropriate, using factors already in the statute. Defines "gross income" for purposes of calculating maintenance obligations as "all income from all sources", which is used in calculating net income for purposes of calculating child support. Provides that, unless the parties otherwise agree, the court may not order unallocated maintenance and child support in a dissolution judgment or a post-dissolution order, but the court may order unallocated maintenance and child support in a pre-dissolution temporary order. In provisions of the Act concerning the determination of child support, provides that obligations pursuant to a court order for maintenance in the pending proceeding actually paid or payable to the same party to whom child support is to be payable shall be deducted from net income.

Further amends rule to add a provision regarding Foster Care payments to subsection (c)(2)(A) (for determinations of "Net Income" by hearing officers in establishing the minimum amount of support) to be consistent with subsection (c)(1)(A) (for determinations of "Net Income" by Child Support Specialist (CSS) in establishing the minimum amount of support). Amends rule to reflect PA 99-0090 (SB 57) which amends the Illinois Marriage and Dissolution of Marriage Act by making changes regarding: construction of the Act; venue; pleadings; solemnization of marriage; offenses involving issuance of licenses; grounds for dissolution of marriage; judgments for legal separation; mediation; costs of educational sessions; hearings on default; time for entering judgments; simplified dissolution procedure; temporary relief; dissolution action stays; agreements; disposition of property and debts; child support; attorney's fees; modification of provisions of judgments; educational expenses; support for disabled children who have attained majority; custody proceedings, hearings, and orders; allocation and restriction of parental responsibilities; parenting plans; interviews and evaluations of children; enforcement of allocated parenting time; parental relocation; applicability; repeal of various provisions; and other matters. In the provisions of the Act concerning deviations from the guidelines (Section 505(a)(2)), provides that "2) The above guidelines shall be applied in each case unless the court finds that a deviation from

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the guidelines is appropriate after considering the best interest of the child in light of the evidence, including, but not limited to, one or more of the following relevant factors:(a) the financial resources and needs of the child; (b) the financial resources and needs of the parents custodial parent; (c) the standard of living the child would have enjoyed had the marriage not been dissolved; (d) the physical, mental, and emotional needs of the child; and (d-5) the educational needs of the child. ; and (e) the financial resources and needs of the non-custodial parent." Section 505(a)(3)(h) of the Act (concerning determinations of child support), provides that "Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income including, but not limited to, student loans, medical expenditures necessary to preserve life or health, reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts. The court shall reduce net income in determining the minimum amount of support to be ordered only for the period that such payments are due and shall enter an order containing provisions for its self-executing modification upon termination of such payment period." Amends rule to reflect PA 99-85 (HB 1531) and changes references from The Illinois Parentage Act of 1984 to the Illinois Parentage Act of 2015.

160.61 – Amends rule to reflect PA 99-85 (HB 1531) to provide for the passage of the Illinois Parentage Act of 2015. Presumptions were expanded to include civil unions and substantially similar legal relationships. An acknowledgment of paternity or a denial of parentage may be signed prior to the birth of a child. A presumed father may sign or otherwise authenticate an acknowledgment of paternity. A presumed parent may sign a denial of parentage. An acknowledgment of paternity or denial of parentage must be filed with the Illinois Department of Healthcare and Family Services (Department). Adds language providing that the Voluntary Acknowledgment of Paternity and Denial of Parentage should be filed with the Department, the earlier of 60 days of being signed; or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the mother or the alleged father is a party.

Amends rule to define who may act as a witness to a Voluntary Acknowledgment of Paternity, Denial of Parentage and Rescission of an Acknowledgement of Paternity/Denial of Parentage. Also changes references from The Illinois Parentage Act of 1984 to the Illinois Parentage Act of 2015.

160.70 – Amends the rule to reflect PA 99-0471 (HB 1485) to give the Department or an individual the ability to bring a paternity order that originated with the Department (Administrative Paternity Order) into court for further action. The rule already gives the

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Department or an individual the ability to bring an Administrative Support Order into court for further action.

160.75 – Amends rule to reflect PA 99-0157 (HB 3683) to add a new subsection l to provide for administrative fines imposed by the department against a payor of income where a payor of income willfully fails, after receiving two reminders from the Department, to withhold or pay over income pursuant to a properly served Income Withholding Notice or otherwise fails to comply with any duties imposed by this Act. The Department will impose a fine upon the payor of income not to exceed \$1,000.00 per payroll period.

160.88 – Amends rule to reflect PA 99-0085 (HB 1531) and changes references from The Illinois Parentage Act of 1984 to the Illinois Parentage Act of 2015.

160.200 – Amends rule to reflect PA 99-0119 (HB 3512) to provide that the Uniform Interstate Family Support Act (UIFSA) provisions comply with federal legislation which requires that each state with a IV-D Program in connection with the approval of their state plans for purposes of federal funding, adopt UIFSA as promulgated by the National Conference of Commissioners on Uniform State Laws.

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

Mollie Zito
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 Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

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SUBCHAPTER f: COLLECTIONS

PART 160

CHILD SUPPORT SERVICES

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SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

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160.95	State Disbursement Unit
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SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

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- 160.150 Department Review of Distribution of Child Support for TANF Recipients
160.160 Department Review of Distribution of Child Support for Former AFDC or TANF Recipients

SUBPART I: INTERGOVERNMENTAL IV-D CASES

Section

- 160.200 Provision of Services in Intergovernmental IV-D Cases

AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3, and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998;

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emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12737, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14560, effective December 1, 1999; amended at 24 Ill. Reg. 2380, effective January 27, 2000; amended at 24 Ill. Reg. 3808, effective February 25, 2000; emergency amendment at 26 Ill. Reg. 11092, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17822, effective November 27, 2002; amended at 27 Ill. Reg. 4732, effective February 25, 2003; amended at 27 Ill. Reg. 7842, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 12139, effective July 11, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18891, effective November 26, 2003; amended at 28 Ill. Reg. 4712, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 10225, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15591, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 2743, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10211, effective June 30, 2005; amended at 29 Ill. Reg. 14995, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 5426, effective March 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 8897, effective May 1, 2006; amended at 30 Ill. Reg. 13393, effective July 28, 2006; amended at 31 Ill. Reg. 12771, effective August 27, 2007; emergency amendment at 32 Ill. Reg. 543, effective January 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6511, effective March 31, 2008; amended at 32 Ill. Reg. 16805, effective October 6, 2008; amended at 33 Ill. Reg. 591, effective January 5, 2009; amended at 33 Ill. Reg. 9077, effective June 15, 2009; amended at 33 Ill. Reg. 12732, effective September 7, 2009; amended at 34 Ill. Reg. 6809, effective May 1, 2010; amended at 34 Ill. Reg. 15406, effective September 27, 2010; amended at 35 Ill. Reg. 2043, effective January 21, 2011; amended at 35 Ill. Reg. 4513, effective March 1, 2011; amended at 36 Ill. Reg. 1531, effective January 23, 2012; amended at 36 Ill. Reg. 9140, effective June 11, 2012; amended at 37 Ill. Reg. 8017, effective May 28, 2013; amended at 38 Ill. Reg. 4392, effective January 29, 2014; amended at 38 Ill. Reg. 6028, effective February 26, 2014; amended at 41 Ill. Reg. 3338, effective March 7, 2017.

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Section 160.5 Definitions

"Application for IV-D services" refers to an application for child support enforcement services that is a signed, written request completed in accordance with the Department's requirements for a IV-D case as defined in Section 160.10(a)(9). An electronic signature is created when a web application is submitted and received via the internet.

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"Assignment of Medical Support" refers to the transfer of support rights to the Department by the acceptance of Medicaid benefits under 42 USC 1396k and Section 10-1 of the Illinois Public Aid Code [305 ILCS 5/10-1].

"Assignment of support" refers to the transfer of support rights to the Department by the acceptance of TANF benefits, pursuant to 42 USC 608(a)(3) and Section 10-1 of the Illinois Public Aid Code [305 ILCS 5/10-1] or the Department of Children and Family Services (DCFS), in the case of IV-E foster care, pursuant to 42 USC 671(a)(17) and Section 9.1 of the Children and Family Services Act [20 ILCS 505/9.1].

"Assistance Standard" shall have the meaning ascribed to it in 89 Ill. Adm. Code 111.

"Cancellation" refers to the discontinuance of TANF financial and medical benefits for an assistance unit because of the failure to satisfy the conditions of eligibility under the Title IV-A State Plan.

"Central Authority" means the agency designated by a government to facilitate support enforcement with a foreign reciprocating country pursuant to section 459A of the Social Security Act (42 USC 659a).

"Child" refers to any child under the age of 18 years and any child under the age of 19 years who is still attending high school (see Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505]).

"Child support enforcement services" refers to those services provided to establish, enforce and collect support, in accordance with an approved State Plan under Title IV-D of the Social Security Act (42 USC 654).

"Country" means a foreign country (or a political subdivision of a foreign country) declared to be a foreign reciprocating country pursuant to section 459A of the Social Security Act (42 USC 659a) and any foreign country (or political subdivision) with which the State of Illinois has entered into a reciprocal arrangement for the establishment and enforcement of support obligations to the extent consistent with federal law (section 459A(d) of the Social Security Act).

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"Date of Collection" for distribution purposes in all cases refers to the date on which a collection is received by the Department as a result of withholding of an amount by the Department of Employment Security from a responsible relative's unemployment insurance benefits (UIB) to meet a support obligation; a collection as a result of intercept of a federal income tax refund is received by the Department: or in all other instances, a support payment is received by the State Disbursement Unit (SDU) except that, if current support is withheld by an employer in the month when due and received by the SDU in the month following the month when due, the date of withholding may be deemed to be the date of collection.

"IV-D account receivable" or "support account" refers to a part of the accounting system in KIDS used to record charges, payments, and account adjustments for a particular account. More than one account may exist for a given caretaker relative and for a given responsible relative. For example, a mother with two children by one father from one marriage, and three children by a second father from another marriage, will have two support accounts if there are two separate support obligations. If children are born in a non-marital relationship, there will be one account per child.

"IV-D program" or "IV-D" refers to the child support program set forth in 42 USC 651 et seq. and this Part.

"IV-E foster care" or "IV-E" refers to the foster care program set forth in 42 USC 670 et seq.

"Initial receipt in the State" for disbursement purposes in all cases refers to the date on which the Department of Employment Security withholds an amount from a responsible relative's unemployment insurance benefits (UIB) to meet a support obligation, when there is a withholding of UIB, a collection as a result of intercept of a federal income tax refund is received by the Department, or in all other instances, a support payment is received by the State Disbursement Unit.

"Intergovernmental IV-D case" refers to a IV-D case in which the responsible relative lives and/or works in a different jurisdiction than the custodial parent and children that has been referred by an initiating agency to a responding agency for services. An intergovernmental case may include any combination of referrals between states, tribes and countries. An intergovernmental IV-D case also may

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include cases in which a state agency is seeking only to collect support arrearages, whether owed to the family or assigned to the state.

"Interstate IV-D case" refers to a IV-D case in which the responsible relative lives and/or works in a different state than the custodial parent and children that has been referred by an initiating state to a responding state for services. An interstate IV-D case also may include cases in which a state is seeking only to collect support arrearages, whether owed to the family or assigned to the state.

"Key Information Delivery System" or "KIDS" refers to the data processing system used to process all IV-D cases in Illinois.

"MANG" refers to Medical Assistance No Grant under the Medicaid Program, Title XIX of the Social Security Act (42 USC 1396k), that is medical assistance to families and individuals wherein no cash payment is made.

"Responsible relative" refers to a person who is responsible, or alleged to be responsible, under law for support of a dependent and is meant to incorporate and be used interchangeably with all similar terms, used in any statute, referring to a person who is responsible, or alleged to be responsible, under the law for support of a dependent, including the term "supporting parent". "Supporting parent" is a term used in the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505].

"Support case" refers to a case established in the KIDS for the purpose of providing establishment, enforcement and collection services to dependent children and their custodial parent, in accordance with the provisions of Title IV-D of the Social Security Act (42 USC 654).

"Support obligation" refers to the duty a non-custodial relative owes to his or her dependents, as set forth in a legally-valid court or administrative order.

"TANF" refers to Temporary Assistance for Needy Families, Title IV-A of the Social Security Act (42 USC 601 et seq.) that is financial and medical assistance available to families with one or more children or on behalf of children in foster care under the guardianship of the Department of Children and Family Services.

"TANF MANG" refers to Medical Assistance No Grant cases in which medical assistance only is available to families with one or more children.

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"TANF MANG recipient" refers to a member of a family with one or more children receiving medical assistance only in the current month.

"TANF recipient" refers to a person who is receiving financial and medical assistance under the TANF program in the current month.

"Two business days", for purposes of disbursement of support payments under Subpart F of this Part, shall have the meaning and be qualified in the same manner as in Section 454B of the Social Security Act (42 USC 654b).

"Unreimbursed former AFDC or TANF" refers to the total amount of financial assistance provided to a family unit, in accordance with Title IV-A of the Social Security Act (42 USC 601 et seq.) for which the State and Federal governments have not been reimbursed. The State and Federal governments are limited in the amount of support payments they may retain for "unreimbursed former AFDC or TANF", in accordance with the provisions set forth in Sections 160.100, 160.110 and 160.130 of this Part. The "amount of unreimbursed assistance accrued prior to the former AFDC or TANF cancellation", reported in the Department's "Statements of Child Support Account Activity for Former Recipients" (see Section 160.140), is that limited amount which the Department is entitled to retain.

(Source: Amended at 41 Ill. Reg. 3338, effective March 7, 2017)

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS**Section 160.60 Establishment of Support Obligations**

- a) Definitions
 - 1) "CSS" means any Child Support Specialist performing assigned duties, his or her supervisory staff and any other person assigned responsibility by the Director of the Department.
 - 2) "Service" or "Served" means notice given:
 - A) by personal service, substitute service at the individual's usual

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place of abode with some family member or a person residing there who is at least 13 years old, certified mail (with or without return receipt requested) or restricted delivery,

- B) *by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004 [225 ILCS 447] or by a registered employee of a private detective agency certified under that Act, or*
 - C) by any method provided by law for service of summons. (See Sections 2-202, 2-203 and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-202, 2-203 and 2-206] and Sections 10-4 and 10-11 of the Public Aid Code [305 ILCS 5/10-4 and 10-11].)
- 3) "Support Statutes" means the following:
- A) Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X];
 - B) The Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5];
 - C) The Non-Support Punishment Act [750 ILCS 16];
 - D) The Uniform Interstate Family Support Act [750 ILCS 22];
 - E) The Illinois Parentage Act of ~~1984~~ 2015 [750 ILCS 46]~~[750 ILCS 45]~~; and
 - F) Any other statute in another state that provides for child support.
- 4) "Retroactive support" means support for a period prior to the date a court or administrative support order is entered.
- 5) "Child's needs" means:
- A) the custodial parent's statement of the associated costs, including, but not limited to, providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care; or

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- B) the State's current minimum hourly wage multiplied by 40 hours per work week, multiplied by 4.3 weeks per month, multiplied by the applicable child support guideline percentage contained in subsection (c)(1).
- b) Responsible Relative Contact
- 1) Timing and Purpose of Contact
 - A) The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.
 - B) The purpose of contact and interview shall be to obtain relevant facts, including income information (for example, paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.
 - 2) At least ten working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:
 - A) the Title IV-D case name and identification number;
 - B) the names and birthdates of the persons for whom support is sought or other information identifying those persons, such as a prior court number;
 - C) that the responsible relative has a legal obligation to support the named persons;
 - D) the date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and
 - E) that the responsible relative should bring specified information regarding his or her income and resources to the interview.

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3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that the client may attend if he or she chooses.

c) Determination of Financial Ability

1) In cases handled under subsection (d), the CSS shall determine the amount of child support and enter an administrative support order on the following basis:

Number of Children	Percent of Responsible Relative's Net Income
1	20%
2	28%
3	32%
4	40%
5	45%
6 or more	50%

A) "Net Income" is the total of all income from all sources, minus the following deductions:

- i) Federal income tax (properly calculated withholding or estimated payments);
- ii) State income tax (properly calculated withholding or estimated payments);
- iii) Social Security (FICA payments);
- iv) Mandatory retirement contributions required by law or as a condition of employment;
- v) Union dues;
- vi) Dependent and individual health/hospitalization insurance premiums and premiums for life insurance ordered by the court to reasonably secure payment of ordered child support;

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vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;

viii) Obligations pursuant to a court order for maintenance in the pending proceeding actually paid or payable under Section 504 of the Marriage and Dissolution of Marriage Act to the same party to whom child support is to be payable;

ix~~viii~~) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income, including, but not limited to, student loans;

x~~ix~~) Medical expenditures necessary to preserve life or health;

xi~~x~~) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts; and

xii~~xi~~) Foster care payments paid by the Department of Children and Family Services for providing licensed foster care to a foster child.

B) The deductions in subsections (c)(1)(A)~~(viii), (ix), and (x)~~ and (xi) shall be allowed only for the period that the payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of the payment period.

2) In de novo hearings provided for in subsection (d)(5)(H) and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall determine the minimum amount of child support as follows:

Number of Children	Percent of Responsible Relative's Net Income
1	20%
2	28%
3	32%
4	40%
5	45%

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6 or more

50%

- A) "Net Income" is the total of all income from all sources, minus the following deductions:
- i) Federal income tax (properly calculated withholding or estimated payments);
 - ii) State income tax (properly calculated withholding or estimated payments);
 - iii) Social Security (FICA payments);
 - iv) Mandatory retirement contributions required by law or as a condition of employment;
 - v) Union dues;
 - vi) Dependent and individual health/hospitalization insurance premiums and premiums for life insurance ordered by the court to reasonably secure payment of ordered child support;
 - vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
 - viii) Obligations pursuant to a court order for maintenance in the pending proceeding actually paid or payable under Section 504 of the Marriage and Dissolution of Marriage Act to the same party to whom child support is to be payable;
 - ixviii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income, including, but not limited to, student loans;
 - xix) Medical expenditures necessary to preserve life or health;
and
 - xix) Reasonable expenditures for the benefit of the child and the

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other parent, exclusive of gifts; and.

xii) Foster care payments paid by the Department of Children and Family Services for providing licensed foster care to a foster child.

- B) The deductions in subsections (c)(2)(A)~~(viii), (ix), and (x) and (xi)~~ shall be allowed only for the period that the payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of the payment period.
- C) The guidelines in this subsection (c)(2) shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:
- i) the financial resources and needs of the child;
 - ii) the financial resources and needs of the custodial parent;
 - iii) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;
 - iv) the physical and emotional condition of the child and his or her educational needs; and
 - v) the financial resources and needs of the non-custodial parent.
- D) Each order requiring support that deviates from the guidelines shall state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order.
- 3) In cases referred for judicial action under subsection (e), the Department's legal representative shall ask the court to determine the amount of child

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support due in accord with Section 505 and medical support in accordance with Section 505.2 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505].

- 4) All orders for support shall include a provision for the health care coverage of the child. In all cases in which health insurance coverage is not being furnished by the responsible relative to a child to be covered by a support order, the Department shall enter administrative, or request the court to enter, support orders requiring the relative to provide coverage when a child can be added to an existing insurance policy at reasonable cost or indicating what alternative arrangement for health insurance coverage is being provided. Net income shall be reduced by the cost of the coverage in determining the minimum amount of support to be ordered.
- 5) In cases in which the net income of the responsible relative cannot be determined because of default or any other reason, the Department shall order or request the court to order the responsible relative to pay retroactive support for the prior period in the amount of the child's needs as defined by subsection (a)(5)(A) or (B) when the IV-D client requests that such an order for retroactive support be entered or requested.
- 6) The final order in all cases shall state the support level in dollar amounts.
- 7) If there is no net income because of the unemployment of a responsible relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving cash assistance in Illinois, the Department, when proceeding under subsection (d), shall order, or, when proceeding under subsection (e), shall request the court to order the relative to report for participation in job search, training or work programs established for those relatives. In TANF cases, the Department shall order, when proceeding under subsection (d), or, when proceeding under subsection (e), shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the responsible relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].

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- 8) The Department shall enter administrative support orders, or request the court to enter support orders, that include a provision requiring the responsible relative to notify the Department, within seven days:
 - A) of any new address of the responsible relative;
 - B) of the name and address of any new employer or source of income of the responsible relative;
 - C) of any change in the responsible relative's Social Security Number;
 - D) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and
 - E) if the responsible relative has access to group coverage, the policy name and number and the names of persons covered under the policy.
- 9) The Department shall enter administrative support orders, or request the court to enter support orders, that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the termination date does not apply to any arrearage that may remain unpaid on that date. The provision of a termination date in the order shall not prevent the order from being modified.
- 10) The Department shall enter administrative support orders, or request the court to enter support orders, that include a statement that if there is an unpaid arrearage or delinquency equal to at least one month's support obligation on the termination date stated in the order for support or, if there is no termination date stated in the order, on the date the child attains the age of majority or is otherwise emancipated, then the periodic amount required to be paid for current support of that child immediately prior to that date shall automatically continue to be an obligation, not as current support but as periodic payment toward satisfaction of the unpaid arrearage or delinquency.
- 11) At the request of the IV-D client, the Department shall enter

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administrative support orders, or request the court to enter support orders, that include provisions for retroactive support, as follows:

- A) In cases handled under subsection (d), the Department shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties' separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock).
 - B) In de novo hearings provided for in subsection (d)(5)(H) and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock), unless, in cases in which the child was born out of wedlock, the hearing officer, after having examined the factors set forth in Section ~~802(e)14(b)~~ of the Illinois Parentage Act of 2015 [~~750 ILCS 46/802(e)1984~~ 750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505] decides that another date is more appropriate.
 - C) In cases referred for judicial action under subsection (e), the Department's legal representative shall ask the court to determine the date retroactive support is to commence in accord with Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X], Sections 510 and 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510 and 505], and Section ~~802(e)14(b)~~ of the Illinois Parentage Act of ~~2015~~ of 1984 [~~750 ILCS 45/14~~].
- d) Administrative Process
- 1) Use of Administrative Process
 - A) Unless otherwise directed by the Department, the CSS shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in

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matters involving:

- i) presumed paternity as set forth in Section ~~2045~~ of the Illinois Parentage Act of ~~20151984 [750 ILCS 45/5]~~ and support is sought from one or both parents;
 - ii) alleged paternity and support is sought from the mother;
 - iii) an administrative paternity order entered under Section 160.61 and support is sought from the man determined to be the child's father, or from the mother, or both;
 - iv) an establishment of parentage in accordance with ~~Article 3Section 6~~ of the Illinois Parentage Act of ~~20151984 [750 ILCS 45/6]~~; and
 - v) an establishment of parentage under the laws of another state, and support is sought from the child's father, or from the mother, or both.
- B) In addition to those items specified in subsection (b)(2), the notice of support obligation shall inform the responsible relative of the following:
- i) that the responsible relative may be required to pay retroactive support as well as current support; and
 - ii) that in its initial determination of child support under subsection (c), the Department will only consider factors listed in subsections (c)(1)(A)(i) through ~~(xii)(x)~~; ~~and~~
 - iii) that the Department will enter an administrative support order based only on those factors listed in subsections (c)(1)(A)(i) through ~~(xii)(xi)~~; ~~and~~
 - iv) that in order for the Department to consider other factors listed in subsection (c)(2)(C), Section ~~802(e)14(b)~~ of the Illinois Parentage Act of ~~20151984~~, and Section 505 of the Illinois Marriage and Dissolution of Marriage Act, either

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the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; ~~and~~

- v) that both the client and the responsible relative have a right to request a de novo hearing within 30 days after the mailing or delivery of an administrative support order, at which time a Department hearing officer may consider other factors listed in subsection (c)(2)(C), Section ~~802(e)14(b)~~ of the Illinois Parentage Act of ~~2015~~1984, and Section 505 of the Illinois Marriage and Dissolution of Marriage Act; ~~and~~
 - vi) that unless the client and/or the responsible relative requests a de novo hearing within 30 days after the order's mailing or delivery, the administrative support order will become a final enforceable order of the Department; and
 - vii) that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the guidelines.
- 2) The CSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) when the relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered that shall incorporate the resulting support amount. When requested by the IV-D client, the CSS shall also determine (and incorporate in the administrative support order) the amount of retroactive support the responsible relative shall be required to pay by applying the relative's current net income (unless the relative provides necessary information to determine net income for the prior period) to the support guidelines in accordance with subsection (c). The CSS shall reduce the total amount of retroactive support determined by the amount of cash contributions made by the responsible relative to the IV-D client for the benefit of the child during the retroactive period as specified in the IV-D

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client's affidavit of direct contribution. In no event shall credit be given in excess of the total amount of the retroactive support determined.

- 3) Failure to Appear
 - A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the CSS shall enter an administrative support order by default, except as provided in subsection (d)(3)(D). The terms of the order shall be based upon the needs of the child for whom support is sought, as defined by subsection (a)(5). No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served as provided by law with a notice of support obligation.
 - B) The CSS may issue a subpoena to a responsible relative who fails to appear for interview, or who appears and furnishes income information, when the CSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:
 - i) financial ability, as determined from the guidelines contained in subsection (c), exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A); or
 - ii) income exceeds that reported by the relative.
 - C) The CSS will not issue a subpoena under subsection (d)(3)(B) when the information from the Title IV-D client, the responsible relative's employer or other source concerning the relative's financial ability is verified through documentation such as payroll records, paycheck stubs or income tax returns.
 - D) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued to him or her pursuant to subsection (d)(3)(B), the CSS may enter a temporary administrative support order by default, in accordance with subsection (d)(3)(A), and may then, after investigation and

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determination of the responsible relative's financial ability to support, utilizing existing State and federal sources (for example, Illinois Department of Employment Security), client statements, employer statements, or the use of the Department's subpoena powers, enter a support order in accord with subsection (c)(1).

- 4) The Department shall register, enforce or modify an order entered by a court or administrative body of another state, and make determinations of controlling order where appropriate, in accordance with the provisions of the Uniform Interstate Family Support Act [750 ILCS 22].
- 5) An administrative support order shall include the following:
 - A) the Title IV-D case name and identification number;
 - B) the names and birthdates of the persons for whom support is ordered;
 - C) the beginning date, amount and frequency of support;
 - D) any provision for health insurance coverage ordered under subsection (c)(4);
 - E) a provision for retroactive support ordered under subsection (c)(11), including the total retroactive support obligation and the beginning date, amount (that shall not be less than 20 percent of the current support amount) and frequency of payments to be made until the retroactive support obligation is paid in full;
 - F) the amount of any arrearage that has accrued under a prior support order and the beginning date, amount (that shall not be less than 20 percent of the support order) and frequency of payments to be made until the arrearage is paid in full;
 - G) a provision requiring that support payments be made to the State Disbursement Unit;
 - H) a statement informing the client and the responsible relative that they have 30 days from the date of mailing of the administrative

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support order in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102 and subsection (c)(2), except that, for orders entered as a result of a decision after a de novo hearing, the statement shall inform the client and the responsible relative that the order is a final administrative decision of the Department and that review is available only in accord with provisions of the Administrative Review Law [735 ILCS 5/Art III];

- I) except when the order was entered as a result of a decision after a de novo hearing, a statement that the order was based upon the factors listed in subsection (c)(1)(A) and that in order to have the Department consider other factors listed in subsection (c)(2)(C), Section ~~802(e)14(b)~~ of the Illinois Parentage Act of ~~2015~~1984 and Section 505 of the Illinois Marriage and Dissolution of Marriage Act, either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and
 - J) in each administrative support order entered or modified on or after January 1, 2002, a statement that a support obligation required under the order, or any portion of a support obligation required under the order, that becomes due and remains unpaid for 30 days or more shall accrue simple interest at the rate of nine percent per annum.
- 6) Every administrative support order entered on or after July 1, 1997 shall include income withholding provisions based upon and containing the same information as prescribed in Section 160.75. The Department shall also prepare and serve income withholding notices after entry of an administrative support order and effect income withholding in the same manner as prescribed in Section 160.75.
- 7) The Department shall provide to each client and each responsible relative a copy of each administrative support order entered, no later than 14 days after entry of the order, by:
- A) delivery at the conclusion of an interview during which financial

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ability to support was determined. An acknowledgment of receipt signed by the client or relative, or a written statement identifying the place, date and method of delivery signed by the Department's representative, shall be sufficient for purposes of notice to that person.

- B) regular mail to the party not receiving personal delivery when the relative fails or refuses to accept delivery, either party does not attend the interview, or the orders are entered by default.
- 8) In any case in which the administrative support process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the administrative support case shall remain in the original county unless a transfer to the other county in which the custodial parent and the non-marital child reside is requested by either party or the Department and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative support process.
- 9) In any case in which an administrative support order is entered to establish and enforce an arrearage only, and the responsible relative's current support obligation has been terminated, the administrative support order shall require the responsible relative to pay a periodic amount equal to the terminated current support amount until the arrearage is paid in full.
- e) Judicial Process
- 1) The Department shall refer Title IV-D cases for court action to establish support obligations of responsible relatives, pursuant to the support statutes (see subsection (a)(3)) in matters requiring the determination of parentage (except when paternity is to be determined administratively under Section 160.61), when the court has acquired jurisdiction previously and in instances described in subsection (d)(3)(D), and as otherwise determined by the Department.
 - 2) The Department shall prepare and transmit pleadings and obtain or affix appropriate signature thereto, which pleadings shall include, but not be limited to, petitions to:

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- A) intervene;
 - B) modify;
 - C) change payment path;
 - D) establish an order for support;
 - E) establish retroactive support when the IV-D client requests it;
 - F) establish past-due support;
 - G) establish parentage;
 - H) obtain a rule to show cause;
 - I) enforce judicial and administrative support orders; and
 - J) combinations of any of the above.
- 3) Department legal representatives shall request that judicial orders for support require payments to be made to the State Disbursement Unit in accordance with Section 10-10.4 of the Illinois Public Aid Code [305 ILCS 5/10-10.4], Section 507.1 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/507.1], Section 320 of the Uniform Interstate Family Support Act [750 ILCS 22/320], Section ~~81521.1~~ of the Illinois Parentage Act of ~~2015~~ [750 ILCS 46/815]~~1984~~ [750 ILCS 45/21.1] and Section 25 of the Non-Support Punishment Act [750 ILCS 16/25].
- f) Petitions for Release from Administrative Support Orders – Extraordinary Remedies
- 1) Notwithstanding the statements required by subsections (d)(5)(H) and (d)(5)(I), more than 30 days after the entry of an administrative support order under subsection (d), a party aggrieved by entry of an administrative support order may petition the Department for release from the order on the same grounds as are provided for relief from judgments under Section 2-1401 of the Code of Civil Procedure.

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- 2) Petitions under this subsection (f) must:
 - A) cite a meritorious defense to entry of the order;
 - B) cite the exercise of due diligence in presenting that defense to the Department;
 - C) be filed no later than two years following the entry of the administrative support order, except that the following times shall be excluded in computing the two years:
 - i) time during which the person seeking relief is under legal disability;
 - ii) time during which the person seeking relief is under duress;
 - iii) time during which the ground for relief is concealed from the person seeking relief;
 - D) be supported by affidavit or other appropriate showing as to matters not supported by the record.
- 3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent, caretaker or responsible relative by certified mail, return receipt requested, or by any manner provided by law for service of process. The filing of a petition under this subsection (f) does not affect the validity of the administrative support order.

(Source: Amended at 41 Ill. Reg. 3338, effective March 7, 2017)

Section 160.61 Uncontested and Contested Administrative Paternity and Support Establishment

- a) Definitions
 - 1) "Combined paternity index" means a statistic, stated as an odds ratio in a report of genetic testing results, giving the likelihood that the man having undergone the testing is the father of the child relative to the chance that

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the father is another (unrelated random) man from the same racial background.

- 2) "Genetic testing" means deoxyribonucleic acid (DNA) tests.
 - 3) "Service" or "Served" means notice given:
 - A) by personal service, substitute service at the individual's usual place of abode with some family member or a person residing there who is at least 13 years old, certified mail (with or without return receipt requested) or restricted delivery;
 - B) *by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447] or by a registered employee of a private detective agency certified under that Act [305 ILCS 5/10-4]; or*
 - C) by any method provided by law for service of a summons. (See Sections 2-202, 2-203 and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-202, 2-203 and 2-206]; Sections 10-4 and 10-11 of the Public Aid Code [305 ILCS 5/10-4 and 10-11].)
 - 4) "Non-marital child", as used in this Section and Section 160.62, means a child born out of wedlock for whom paternity has not been established.
 - 5) "Alleged father", as used in this Section and Section 160.62, means a man alleged to be the father of a non-marital child.
 - 6) "Presumed ~~parent~~father" shall have the meaning ascribed to that term in the Illinois Parentage Act of ~~1984 [750 ILCS 45]~~ 2015 [750 ILCS 46].
 - 7) "Probability of paternity" is the value converted from the "Combined Paternity Index" into the percentage of probability.
- b) Uncontested Administrative Paternity Process
- 1) Except as otherwise determined, the Department shall establish a man's paternity of a child through the administrative process set forth in this

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Section, in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:

- A) a non-marital child and support is sought from the alleged father;
 - B) a non-marital child who is in the physical custody of the alleged father or a caretaker relative other than the child's mother, and support is sought from the alleged father or from the mother, or both; or
 - C) presumed paternity as set forth in Section ~~2045(a)(1) and (2)~~ of the Illinois Parentage Act of ~~2015~~1984 [~~750 ILCS 45/5(a)(1) and (2)~~] in which a man other than the presumed father has been alleged to be the child's father, and notice has been provided to the alleged and presumed fathers as set forth in this Section.
- 2) Contact with Responsible Relatives
- A) Following the IV-D client interview, the Department shall contact and interview:
 - i) alleged fathers to establish paternity and support obligations; and
 - ii) mothers to establish an alleged father's paternity of a child (where the alleged father or a caretaker relative other than the mother has physical custody of the child) and to establish the support obligation of the alleged father, the mother, or both.
 - B) The purpose of contact and interview shall be to obtain relevant facts, including information concerning the child's paternity and responsible relative income information (for example, paycheck stubs, income tax returns) necessary to establish the child's paternity and to determine the responsible relative's financial ability for use in establishing child support obligations.
- 3) At least ten working days in advance of the interview, the Department shall serve upon or provide to the alleged father from whom child support

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is sought, by ordinary mail, a notice of alleged paternity and support obligation, which notice shall contain the following:

- A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the alleged father may be represented by counsel;
 - E) that the alleged father should bring specified information regarding his income and resources to the interview;
 - F) that upon failure of the alleged father to appear for the interview, administrative paternity and support orders may be entered against him by default; and
 - G) that the alleged father may be ordered to pay current support and retroactive support, and to provide health insurance coverage for the child.
- 4) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of the child, the alleged father has physical custody of the child, and support is sought from the mother. The notice shall contain the following:
- A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the mother has a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the

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- mother may be represented by counsel;
- E) that the mother should bring specified information regarding her income and resources to the interview;
 - F) that the mother may be ordered to pay current support and retroactive support, and to provide health insurance coverage for the child;
 - G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
 - H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
 - i) an administrative support order may be entered against the mother by default or the Department may seek court determination of financial ability based upon the guidelines; and
 - ii) the Department may enter an order finding the alleged father to be the father of the child.
- 5) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of a child, an adult other than a parent of the child has physical custody of the child, and support is sought from the mother and the alleged father. The notice shall contain the following:
- A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the mother has a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the

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mother may be represented by counsel;

- E) that the mother should bring specified information regarding her income and resources to the interview;
 - F) that the mother may be ordered to pay current support and retroactive support, and to provide health insurance coverage for the child;
 - G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
 - H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
 - i) an administrative support order may be entered against the mother by default or the Department may seek an administrative or court determination of financial ability based upon the guidelines; and
 - ii) the Department may enter an order finding the alleged father to be the father of the child on the basis of genetic testing.
- 6) When the man alleged to be the father of a child is different from a man presumed to be the father under Section ~~2045(a)(1) and (2)~~ of the Illinois Parentage Act of ~~2015~~1984, the Department shall send a notice to the presumed father which shall contain the following:
- A) the Title IV-D case name and identification number;
 - B) the child's name and birthdate;
 - C) the name of the child's mother;
 - D) that the man to whom the notice is directed has been identified as the child's presumed father;

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- E) that another man has been alleged to be the child's father, and the name of that alleged father;
 - F) that the Department has scheduled an interview with the alleged father for the purpose of determining the child's paternity, and the date, time and place of the interview (the date of the interview shall not be less than ten working days after the date of the notice to the presumed father);
 - G) that if the presumed father fails to appear at the interview to assert his rights as the presumed father, the Department may enter an administrative order finding the alleged father to be the child's father on the basis of genetic testing, or if the alleged father and the child's mother voluntarily sign an acknowledgment that the alleged father is the father of the child; and
 - H) that counsel may accompany the presumed father to the interview.
- 7) The Department shall notify each Title IV-D client of the date, time and place of the alleged father interview and that the client may attend if the client chooses.
- 8) In cases involving a non-marital child:
- A) The Department shall provide the alleged father or presumed father and the child's mother an opportunity to establish paternity by voluntarily signing an acknowledgment of paternity (and, in a case in which there is also a presumed parentfather, an opportunity for the mother and the presumed parentfather to sign a denial of parentagepaternity), after being provided with information concerning the implications of signing the acknowledgment (and denial), including parental rights and responsibilities of child support, retroactive support, health insurance coverage, allocation of parental responsibility, allocation of parenting timecustody, visitation, the right to obtain and agree to be bound by the results of genetic testing, and the right to deny paternity and obtain a contested hearing. A presumed father may sign or otherwise authenticate an acknowledgment. If the alleged father, who is not

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the presumed father, and the child's mother establish paternity by completing the voluntary acknowledgment of paternity (and, in a case in which there is also a presumed parent, the denial of parentage), the voluntary acknowledgment of paternity and, if appropriate, the denial of parentage shall:

- i) be signed by the appropriate parties in the presence of a witness as required by Section 12 of the Vital Records Act [410 ILCS 535/12] and this subsection (b). The witness must also sign the voluntary acknowledgment of paternity and, if appropriate, the denial of parentage at the time the appropriate parties sign. For purposes of the voluntary acknowledgment of paternity and, if appropriate, the denial of parentage, a witness must be an adult, age 18 or older, but cannot be a signatory or the child named on the voluntary acknowledgment of paternity or in the case of denial of parentage, cannot be a signatory or child named on the denial; and
 - ii) be filed with the Department of Healthcare and Family Services within 60 days after being signed and witnessed by the appropriate parties; or after the birth of the child; or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the signatory is a party. If a voluntary acknowledgment of paternity and/or the denial of parentage is filed prior to the birth of a child, the signatories may be asked to resubmit the document with the date of birth of the child and the name of the child.
- B) The Department shall enter and, within 14 days after entry, serve or mail the parties a copy of an administrative paternity order finding the alleged father to be the father of the child in the following circumstances. An acknowledgment of receipt signed by the client or relative or a written statement identifying the place, date, and method of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person. The Department shall enter the order where:

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- i) the alleged father and the child's mother (and any presumed father) have voluntarily signed an agreement to be bound by the results of genetic testing, and the results of such testing show that the alleged father is not excluded and that the combined paternity index is at least 1000 to 1 and there is a 99.9% probability of paternity;
- ii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him in a case in which support is sought from the alleged father, or fails to appear for scheduled genetic testing after signing an agreement to be bound by the results of genetic testing;
- iii) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where the alleged father has physical custody of the child;
- iv) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where an adult other than a parent of the child has physical custody of the child, the alleged father has voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 1000 to 1 and there is a 99.9% probability of paternity;
- v) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him (or fails to appear for genetic testing after agreeing to be bound by the results of genetic testing) in a case where an adult other than a parent of the child has physical custody of the child;
- vi) the presumed father fails to appear in response to the Department's notice to presumed father served upon him, the child's mother, and the alleged father have voluntarily

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- signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 1000 to 1 and there is a 99.9% probability of paternity; or
- vii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him, and the presumed father fails to appear in response to the Department's notice to presumed father served upon the presumed father.
- C) The Department shall make a determination that the alleged father is not the father of the child where the results of genetic testing exclude the alleged father.
- 9) An agreement to be bound by the results of genetic testing under subsection (b)(8)(B) shall not be valid when the mother or alleged father is a minor, unless the parent or guardian of the minor mother or minor alleged father also signs the agreement to be bound by the results of genetic testing, except when the mother or alleged father is either emancipated or head of his or her own household with the child for whom paternity is being determined.
- 10) A party aggrieved by entry of an administrative paternity order, pursuant to subsection (b)(8), may have the order vacated if, within 30 days after the authorized mailing or service of the order, the party appears in person at the office to which he or she was given notice to appear for an interview pursuant to subsection (b)(3) and files a written request for relief from the order. The Department shall then proceed with the establishment of paternity under this Section. A party may obtain relief under this subsection (b) only once in any proceeding to establish paternity.
- 11) Rescission of Voluntary Acknowledgment of Paternity or Denial of Parentage
- A) A signatory~~The child's mother or the alleged father~~ may rescind a voluntary acknowledgment of paternity, and/or a denial of parentage ~~void the presumption of paternity created by voluntarily~~

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~~signing an acknowledgment of paternity~~ under Section 12 of the Vital Records Act ~~[410 ILCS 535/12]~~, Article 3 of the Illinois Parentage Act of 2015 and this subsection (b) by signing a rescission of the voluntary acknowledgment of paternity/denial of parentage in the presence of a witness and filing it with the Department by the earlier of:

~~i)A)~~ 60 days after the effective date of the acknowledgment of paternity, and/or the denial of parentage, as provided in section 304 of the Illinois Parentage Act of 2015 ~~was signed~~; or

~~ii)B)~~ the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the signatory ~~the mother or the alleged father~~ is a party.

B) The witness must also sign the rescission of the voluntary acknowledgment of paternity/denial of parentage at the time the parents sign. For purposes of the rescission of the voluntary acknowledgment of paternity/denial of parentage, a witness must be an adult, age 18 or older, but cannot be a signatory or the child named on the rescission.

~~C)12)~~ If a signatory of an acknowledgment of paternity or denial of parentage ~~the mother or alleged father~~ signs a rescission of voluntary acknowledgment of paternity/denial of parentage, the Department shall process the case under this subsection (b).

c) Contested Paternity Hearing Officers

- 1) Except as otherwise directed by the Department or provided for in this Part, cases in which paternity is contested shall be referred to Department hearing officers to administratively determine paternity. The Department shall provide the alleged father (and any presumed father) with notice and opportunity to contest paternity at a hearing to determine the existence of the father and child relationship. The notice and any administrative hearing shall be governed by 89 Ill. Adm. Code 104.200 through 104.295. Any administrative support order shall be established in accordance with

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Section 160.60.

- 2) Notice shall be given to all parties in the manner provided for service of a notice of alleged paternity and support obligation under subsections (a) and (b) or, when necessary, by publication in cases in which the whereabouts of a party or parties are unknown after diligent location efforts by the Department. When service is by publication, the notice shall be published at least once in each week for three consecutive weeks in a newspaper published in the county in which the administrative proceeding is pending. If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining Illinois county having a circulation in the county in which the administrative proceeding is pending. In addition, where service is by publication, the date of the interview stated in the notice shall not be less than 30 days after first publication of the notice.
- 3) The Department shall enter default paternity determinations in contested administrative cases as provided for under subsection (b). However, when notice of the administrative proceedings was served on a party by publication under subsection (c)(2), a notice of default paternity determination shall be published in the same manner. The notice of default paternity determination shall contain the information required in an administrative paternity order under subsections (d)(1) through (9), except that the notice of default paternity determination shall not include the mother's and father's Social Security numbers. The Department shall not proceed to establish paternity administratively under subsection (c) in those cases in which the court has acquired jurisdiction previously or the custodial parent claims good cause for failing to cooperate in the establishment of paternity and is found to be exempt from cooperating as set forth in Section 160.35.
- 4) In any case in which the administrative paternity process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the paternity determination case shall remain in the original county of venue unless a transfer to another county of proper venue is requested by either party and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative paternity process.

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- d) An administrative paternity order, whether entered under subsection (b) or (c), shall include the following:
- 1) the Title IV-D case name and identification number;
 - 2) the name and birthdate of the child for whom paternity is determined;
 - 3) the alleged father's name and his Social Security number, if known;
 - 4) the mother's name and her Social Security number, if known;
 - 5) a finding that the alleged father is the father of the child, and a statement indicating how paternity was determined (for example, agreement to be bound by the results of genetic testing, default, contested hearing);
 - 6) except in cases in which paternity is administratively determined under subsection (b)(8)(B)(ii), (v) or (viii), or in a contested hearing under subsection (c), a statement informing the client and responsible relative that each has 30 days after the date of mailing (or delivery at the interview) of the administrative paternity order to petition the Department for release from the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.105;
 - 7) in cases in which paternity is administratively determined by default under subsection (b)(8)(B)(ii), (v) or (viii), a statement informing the client and responsible relative of the relief available pursuant to subsection (b)(10);
 - 8) a statement that, more than 30 days after entry of an administrative paternity order, a party aggrieved by entry of the administrative paternity order may petition the Department for release from the order under the provisions of subsection (e); and
 - 9) in cases in which paternity is administratively determined in a contested hearing under subsection (c), a statement informing the client and responsible relative that the order is a final and binding administrative decision, and whether the order is reviewable only under the provisions of the Administrative Review Law [735 ILCS 5/Art. III]; and

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- 10) a statement that the Department shall send a copy of the administrative paternity order to the Department of Public Health (DPH), Office of Vital Records, and that DPH, Office of Vital Records, shall prepare a birth certificate in accordance with the paternity order.
- e) Petitions For Release – Extraordinary Remedies
- 1) Notwithstanding the statements required by subsection (d), more than 30 days after entry of an administrative paternity order under subsection (b) or (c), a party aggrieved by entry of an administrative paternity order may petition the Department for release from the order.
 - 2) Petitions under this subsection (e) must:
 - A) Cite a meritorious defense to entry of the order.
 - B) Cite the exercise of due diligence in presenting that defense to the Department.
 - C) Be filed no later than two years following the entry of the administrative paternity order, except that times listed below shall be excluded in computing the two years:
 - i) time during which the person seeking relief is under legal disability;
 - ii) time during which the person seeking relief is under duress; and
 - iii) time during which the ground for relief is concealed from the person seeking relief.
 - D) Be supported by affidavit or other appropriate showing as to matters not supported by the record.
 - 3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent by certified mail, return receipt requested or by any manner provided by law for service of process. The filing of a petition under this subsection (e) does not affect the validity of

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the administrative paternity order.

- f) When the paternity of a child has been administratively established under subsection (b) or (c), the Department shall enter an administrative support order under the process set forth in Section 160.60.
- g) In cases in which a final administrative determination of paternity is pending, but there is clear and convincing evidence of paternity based upon the results of genetic testing and upon motion of a party, the Department shall enter a temporary order for support in the manner provided for in Section 160.60.
- h) The Department shall notify the Department of Public Health of final administrative paternity determinations, voluntary acknowledgments of paternity, denials of paternity and rescissions of paternity.
- i) In cases in which a child's certificate of birth is on file in a state other than Illinois and any of the circumstances stated in this subsection occur, the Department shall forward to the other state a copy of the final administrative determination of paternity or the voluntary acknowledgment of paternity (and the presumed father's denial of paternity, if applicable) or the rescission of paternity:
 - 1) the Department enters a final administrative determination of paternity; or
 - 2) the paternity of a child is established by voluntary acknowledgment under Section 12 of the Vital Records Act; or
 - 3) the alleged father or the child's mother rescinds a voluntary acknowledgment of paternity under Section 12 of the Vital Records Act.
- j) Judicial Process. The Department shall refer Title IV-D cases for judicial action to establish a child's paternity and a responsible relative's support obligation pursuant to the Illinois Parentage Act of ~~2015~~[1984](#), the Revised Uniform Reciprocal Enforcement of Support Act [750 ILCS 20] or the Uniform Interstate Family Support Act [750 ILCS 22], as appropriate, in matters:
 - 1) involving contested paternity, except when the case is appropriate for referral to a Department hearing officer;
 - 2) when the non-marital child was not conceived in Illinois and the alleged

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father resides in a state other than Illinois;

- 3) when the court has acquired jurisdiction previously; or
- 4) when the results of genetic testing show that the alleged father is not excluded and the combined paternity index is less than 1000 to 1 and there is a 99.9% probability of paternity, except when the case is appropriate for referral to a Department hearing officer under subsection (c).

(Source: Amended at 41 Ill. Reg. 3338, effective March 7, 2017)

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.70 Enforcement of Support Orders

- a) **Income Withholding**
Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases, and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].
- b) **Federal and State Income Tax Refunds and Other Payments**
 - 1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of federal and State income tax refunds and other federal and State payments (see Section 10.05a of the State Comptroller Act [15 ILCS 405/10.05a], Section 2505-650 of the Department of Revenue Law [20 ILCS 2505/2505-650] and the Debt Collection Improvement Act of 1996 (31 USC 3701 et seq.)) due the responsible relatives.
 - 2) The Department shall submit past-due support amounts to:
 - A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with

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federal instructions as follows:

- i) in IV-D TANF and IV-D foster care cases, past-due support owed for a child or for a child and the parent with whom the child is living in an amount not less than \$150. The Department may combine assigned support amounts from the same obligor in multiple cases to reach the minimum amount of \$150 for TANF and Foster Care cases; however, amounts under this subsection (b)(2)(A)(i) may not be combined with amounts under subsection (b)(2)(A)(ii) to reach the minimum amounts required for submittal; and
 - ii) in IV-D non-TANF cases, past-due support owed to or on behalf of a child, or a child and the parent with whom the child is living if the same support order includes support for the child and the parent, and the amount of past-due support is not less than \$500. The Department may combine non-assistance support amounts from the same obligor in multiple cases to reach the minimum amount of \$500; however, amounts under this subsection (b)(2)(A)(ii) may not be combined with amounts under subsection (b)(2)(A)(i) to reach the minimum amounts required for submittal.
- B) the Illinois Department of Revenue to intercept State income tax refunds and the Comptroller to intercept other State payments as follows:
- i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or \$25, whichever is less;
 - ii) in inactive IV-D TANF or IV-D foster care cases, past-due support owed in any amount; and
 - iii) in cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of

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those circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.

- 3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount that will be submitted for intercept, and that any additional ~~past-due~~ support that accumulates will be subject to collection by the Department without further notice;
 - C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:
 - i) a redetermination by the Department; or
 - ii) after the redetermination, an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and
 - D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund that may be payable to that spouse, in the case of a joint federal income tax return.
- 4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.
- 5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the

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results of the redetermination and of the right to contest those results by requesting:

- A) a hearing by the Department within 15 days after the date of mailing of the notice; or
 - B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.
- 6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within ten days after the responsible relative's request. The Department shall be bound by the decision of the state with the order.
- 7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 8) The Department shall notify:
- A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;
 - B) the U.S. Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;
 - C) the Illinois Department of Revenue of any deletion of an amount submitted for State income tax refund and the Comptroller for other payment intercept or any significant decrease in the amount; and
 - D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.

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- 9) The Department shall:
- A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and
 - B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or other evidence of ownership, the equitable apportionment to be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his or hers; except that the Comptroller shall apportion refunds and payments in matters in which the intercepted funds have not yet been transferred to the Department.
- 10) The Department shall, as promptly as possible, apply collections it receives as a result of intercept under this subsection (b) as follows:
- A) federal income tax refunds first to satisfy any IV-D TANF or IV-D foster care assigned past-due support, and then to satisfy any IV-D non-TANF past-due support; and
 - B) other federal and State payments in accord with distribution provisions in Subpart F.
- 11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:
- A) amounts intercepted under this subsection (b) will be applied in accordance with Section 160.130;
 - B) any payment received by the IV-D non-TANF individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his or her share of a joint tax refund.

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- c) Unemployment Insurance Benefits
- 1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters in which the relative has accumulated a past-due support amount equal to a one-month support obligation.
 - 2) The Department shall take the following action:
 - A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.
 - B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.
 - C) establish the amount to be deducted by data entry to the DES computer file, which amount shall be the lesser of:
 - i) the amount of the income withholding order; or
 - ii) fifty percent of the Unemployment Insurance Benefit.
 - D) receive amounts deducted direct from DES.
 - E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.
 - F) post each collection to the Department's payment record.
 - G) apply each collection to the current support obligation, then to past-due obligations.
 - H) provide a redetermination within 180 days after the date of request for redetermination to each relative who disputes the deduction and, where indicated, make adjustments and refund improperly

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deducted amounts.

- 3) The Department of Employment Security shall take the following action:
 - A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.
 - B) pay all amounts deducted direct to the Department.
- d) Contempt of Court and Other Legal Proceedings
 - 1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past-due support amount equal to not less than a one-month support obligation, except as set forth in subsection (d)(2).
 - 2) Contempt proceedings shall not be used in the following instances:
 - A) the responsible relative has no known available income or assets from which to satisfy the support obligation and is:
 - i) receiving public assistance;
 - ii) mentally or physically disabled;
 - iii) incarcerated;
 - iv) out-of-the-country;
 - v) deceased; or
 - vi) otherwise situated, making action to obtain support payment unproductive.
 - B) other legal or administrative remedies are more appropriate under the circumstances.

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- 3) Contempt and other legal proceedings shall be used to:
 - A) establish the amount of past-due support;
 - B) obtain a judgment for purposes of:
 - i) imposition of a lien against real estate;
 - ii) levy upon real estate and personal property; or
 - iii) registration in another state;
 - C) secure an order for lump sum or periodic payment of the past-due support or judgment;
 - D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;
 - E) obtain full or partial payment of ~~past-due~~ support through incarceration;
 - F) ascertain the responsible relative's source and amount of income or location and value of assets;
 - G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;
 - H) secure other enforcement relief; and
 - I) combine any of the actions authorized by this subsection (d)(3).
- 4) During the course of contempt or other legal proceedings to enforce support, if it appears that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving TANF in Illinois, the Department shall request the court to order

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the relative to report for participation in job search, training or work programs established for responsible relatives under Section 9-6 of the Illinois Public Aid Code [305 ILCS 5/9-6].

- 5) In TANF cases, the Department shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code.
- e) Liens Against Real Estate and Personal Property – Judicial Enforcement of Order for Support
- 1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII].
 - 2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:
 - A) the past-due amount is at least \$3,500; and
 - B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.
 - 3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy or memorandum of judgment in the county where the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure).
 - 4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure) when the relative has a known equity

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that is not less than \$3,500 in excess of any statutory exemption.

- f) Liens Against Real Estate and Personal Property – Administrative Enforcement of Order for Support [and Fines Against a Payor of Income Who Willfully Fails to Withhold or Pay Over Income Pursuant to a Properly Served Income Withholding Notice or Otherwise Fails to Comply with any Duties Imposed by the Income Withholding for Support Act \[750 ILCS 28\]](#)
- 1) Liens Against Real Estate
- A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:
- i) the amount of past-due support is at least \$3,500; and
- ii) the responsible relative has an interest in real estate against which a lien may be claimed.
- B) [The State shall impose liens on all legal and equitable interests of a payor of income \(payor\), as that term is defined in the Income Withholding for Support Act, in the payor's real property in the amount of any fine imposed by the Department pursuant to the Income Withholding for Support Act.](#)
- CB) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative [or payor](#) and recorded or filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative [or payor](#) is located. The notice shall inform the responsible relative [or payor](#) and the Recorder or Registrar of Titles of the following:
- i) the name and address of the responsible relative [or payor](#);
- ii) a legal description of the real estate to be levied;
- iii) the amount of past-due support to be satisfied by the levy;

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- iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative or for the fine imposed on a payor pursuant to the Income Withholding of Support Act; and
 - v) the right to prevent action against the real property by payment of the past-due support amount in full or by payment of the fine imposed on the payor in full,~~or~~ to contest the determination that past-due support is owed, or to contest the amount of past-due support or the fine imposed on the payor, by requesting a hearing by the Department.
- DC) A written request for hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (f).
- ED) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- FE) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- GF) The lien shall be enforced against the real estate in accordance with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative or the payor has a known equity in the real estate that is not less than \$3,500 in excess of any statutory exemption.
- 2) Liens Against Personal Property
- A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:

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- i) the amount of past-due support is at least \$1,000;
- ii) the responsible relative has an interest in personal property against which a lien may be claimed; and
- iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of at least \$300.

B) The State shall impose liens on all legal and equitable interests of a payor, as that term is defined in the Income Withholding for Support Act, in the payor's real property in the amount of any fine imposed by the Department pursuant to the Income Withholding for Support Act.

CB) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative or payor, any joint owner of whom the Department has knowledge and location information, the financial institution in which an account of the responsible relative or payor is located, the sheriff of the county in which goods or chattels of the responsible relative or payor are located, or any person or entity indebted to or holding personal property of the responsible relative or payor or who may be liable for payment of money in connection with a claim or cause of action of the responsible relative or payor. The notice shall contain the following:

- i) the name and address of the responsible relative or payor;
- ii) a description of the account or personal property to be levied;
- iii) the amount of past-due support or the amount of the fine imposed on the payor to be satisfied by the levy;
- iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative of the fine

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imposed on the payor;

- v) the right of the responsible relative or payor to prevent levy upon the personal property, including accounts, by payment of the past-due support amount in full or by payment of the fine imposed on a payor in full,~~or~~ by contesting the determination that past-due support is owed, or to contest the amount of past-due support or the fine imposed on the payor, by requesting a hearing within 15 days after the date of mailing of the Notice of Lien or Levy; and
- vi) the right of a joint owner to prevent levy upon his or her share of the account or other personal property or to seek a refund of his or her share of the account or other personal property already levied, by requesting, within 15 days after the date of mailing of the Notice of Lien or Levy to the joint owner, a hearing by the Department to determine his or her share of the account or other personal property. A joint owner who is not provided with a Notice of Lien or Levy by the Department may request a hearing by the Department within 45 days after the date of levy of the account or other personal property.

DE) In addition to the information to be included in the Notice of Lien or Levy under subsection (f)(2)(B), the Notice of Lien or Levy provided to a financial institution shall:

- i) state that the lien is subordinate to any prior lien or prior right of set-off that the financial institution may have against the assets, or in the case of an insurance company or benefit association only in the accounts as defined in Section 10-24 of the Illinois Public Aid Code;
- ii) state that upon being served with the Notice of Lien or Levy that the financial institution shall encumber the assets in the account, and surrender and remit those assets within five days after being served with a Notice to Surrender Assets by the Department;

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- iii) state that the financial institution may charge the responsible relative's or payor's account a fee of up to \$50, and that the amount of any fee be deducted from the account before remitting any assets from the account to the Department;
- iv) include a form, Response to Notice of Lien or Levy, to be completed by the financial institution and returned to the Department within 30 days after receipt of the Notice of Lien or Levy; and
- v) include the federal Notice of Right to Garnish Federal Benefits stating that procedures established under 31 CFR 212 for identifying and protecting federal benefits deposited to accounts at financial institutions do not apply to the Notice of Lien or Levy issued by the Department.

ED) The form for the response to Notice of Lien or Levy provided for under subsection (f)(2)(C)(iv) of this Section shall include provisions for the financial institution to complete stating:

- i) the amount of assets in the responsible relative's or payor's account;
- ii) the amount of the fee to be deducted from the account;
- iii) the amount of assets in the account subject to a prior lien or prior right of set-off of the financial institution;
- iv) the name and address of any joint owners of the account; and
- v) the amount of assets surrendered and remitted to the Department.

FE) A written request for a hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from levying upon the personal property, although the lien shall remain in effect during the pendency of any appeal taken pursuant

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to this subsection (f).

- GF) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative's or payor's written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- HG) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner's written request for a hearing.
- IH) The Department, upon determining a joint owner's share of the personal property or account, shall release the lien against the personal property or account to the extent of the joint owner's share. If the Department's determination of the joint owner's share occurs after the personal property or account has been levied, the Department shall refund the joint owner's share of the personal property or account.
- IJ) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- KJ) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives or payors shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions data that does not relate to a responsible relative whose personal property may be subject to lien or levy under this subsection (f).

g) Security, Bond or Other Guarantee of Payment

- 1) Except as provided in subsections (g)(2) and (3), the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security or bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section

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10-17.4 of the Illinois Public Aid Code.

- 2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security or bond, or give some other guarantee of payment. Except when the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.
 - 3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a request for an order requiring the responsible relative to post security or bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.
- h) Past-Due Support Information to Consumer Reporting Agencies
- 1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (b)(2)(A):
 - A) the name, last known address and Social Security Number of the responsible relative; and
 - B) the terms and amount of past-due support that has accumulated under the order for support.
 - 2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies that shall inform the relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount that will be reported;

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- C) the date past-due support will be reported; and
 - D) the right to prevent reporting by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.
 - 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
 - 5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:
 - A) a request for:
 - i) a redetermination; or
 - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
 - B) payment in full of the amount of the past-due support stated in the:
 - i) advance notice; or
 - ii) notice of redetermination or hearing results.
 - 6) The Department shall advise consumer reporting agencies of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to those agencies.
- i) High-Volume Automated Administrative Enforcement in Interstate Cases
 - 1) The Department shall use high-volume automated administrative

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enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of the enforcement activity to the requesting state.

- 2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states and shall seize those assets through levy or other appropriate processes.
- 3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:
 - A) Include information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.
 - B) Constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.
- 4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of the other state.
- 5) The Department shall maintain records of:
 - A) The number of requests for assistance received by the Department.
 - B) The number of cases for which the Department collected support in response to a request and the actual amount of support collected.
- j) Past-Due Support Certified to the Illinois Department of Revenue, to Municipalities or to the IV-D Agency of Another State for Administrative Enforcement in the Other State
 - 1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the

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Illinois Department of Revenue for collection (see Section 10-17.9 of the Illinois Public Aid Code), to municipalities with ordinances to immobilize and impound vehicles for non-payment of child support (see Section 10-17.3 of the Illinois Public Aid Code, or to another state's IV-D agency for administrative enforcement when the responsible relative has property in the other state.

- 2) The Department may certify past-due support amounts to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:
 - A) past-due support is owed for a child or for a child and the parent with whom the child is living;
 - B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3);
 - C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and
 - D) the responsible relative is not deceased.
- 3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state that shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount that will be submitted for collection;
 - C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and
 - D) that the responsible relative may avoid certification by establishing

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a satisfactory repayment plan as determined by the Department.

- 4) Factors for a satisfactory repayment plan will include, but are not limited to:
 - A) the amount of past-due support owed;
 - B) the amount to be paid toward the past-due amount;
 - C) the amount of current child support obligations; and
 - D) the individual's ability to pay.
- 5) The Department shall provide the Illinois Department of Revenue, municipalities or the IV-D agency of another state for administrative enforcement in the other state the following descriptive information on the responsible relative:
 - A) name;
 - B) Social Security Number;
 - C) IV-D identification number; and
 - D) the past-due support amount.
- 6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state.
- 7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest those results by making a written request for a hearing by the Department within 15 days after the date of mailing of the notice.
- 8) A written request for hearing made within 15 days after the date of

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mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6).

- 9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.
- 10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- 11) The Department shall:
 - A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligation; or
 - B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, that is still in the possession of the Department.
- k) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports
 - 1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds \$2,500:
 - A) the name, last known address and Social Security Number of the responsible relative; and
 - B) the terms and amount of past-due support that has accumulated under the order for support.

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- 2) The Department shall provide the responsible relative with a notice at least 15 days prior to certifying past-due support to the Secretary of Health and Human Services that shall inform the relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount that will be certified;
 - C) the date past-due support will be certified; and
 - D) the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.
- 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:
 - A) a request for:
 - i) a redetermination; or
 - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
 - B) payment in full of the amount of the past-due support stated in the:
 - i) advance notice; or

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- ii) notice of redetermination or hearing results.
- 6) The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to HHS, the U.S. State Department or other agencies.
- 1) List of Responsible Relatives
- 1) Any list of responsible relatives owing past-due support to be disclosed pursuant to Section 12-12.1 of the Illinois Public Aid Code shall be developed as required by this subsection (1).
 - 2) The list shall include no more than 200 responsible relatives at any given time, shall include only responsible relatives owing \$5,000 or more in past-due support accumulated under Illinois court or administrative support orders, and shall include, but is not limited to, the following information about each responsible relative:
 - A) the name of the responsible relative;
 - B) the responsible relative's last known address; and
 - C) the amount of past-due support as of a given date, expressed within a range (for example, \$50,000-\$100,000), that has accumulated under the support order.
 - 3) The Department shall make the list available for public inspection at its offices or by other means of publication, including the Internet.
 - 4) The Department shall send an advance notice by certified mail to the responsible relative at his or her last known address at least 90 days prior to publishing past-due support information. The advance notice shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount as of a given date;

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- C) the earliest date by which ~~past-due~~ ~~past due~~ support information will be published;
 - D) the right to contest the determination that past-due support is owed or the amount of past-due support by submitting a written request to the Department for a hearing within 15 days after the date of mailing of the advance notice; and
 - E) that within 60 days from the date of delivery or refusal of the advance notice, the responsible relative may avoid publication of the past-due support information by paying the past-due support in full, or by establishing and complying with a satisfactory payment plan as determined by the Department.
- 5) Factors for a satisfactory payment plan will include, but are not limited to:
- A) the amount of past-due support owed;
 - B) the amount to be paid toward the past-due support;
 - C) the amount of the current support obligations; and
 - D) the responsible relative's ability to pay.
- 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.101 and 104.103 upon receipt of a request for a hearing.
- 7) The Department shall be stayed from publishing past-due support information regarding the responsible relative by any of the following:
- A) a timely written request for hearing from the responsible relative regarding the existence or amount of past-due support stated in the advance notice; or
 - B) as of the date of publishing, a pending judicial review of a final administrative decision of the Department issued pursuant to this subsection (1)(7).
- m) Certification to the Illinois Secretary of State for Driver's License Suspension

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- 1) The Department shall issue a Notice of Intent to Request Suspension of an Illinois Driver's License to a responsible relative in accordance with Section 10-17.6 of the Illinois Public Aid Code and Section 7-702 of the Illinois Vehicle Code [625 ILCS 5/7-702], when the following circumstances exist:
 - A) the amount of past-due support is at least \$2500, and the responsible relative has not made a voluntary payment of support in the last 90 days; or
 - B) the responsible relative has failed to comply with a subpoena or warrant in a paternity or child support proceeding.
- 2) The Notice of Intent to Request Suspension of an Illinois Driver's License shall contain the following:
 - A) the IV-D case name and identification number;
 - B) the ~~past-due~~ support amount and the amount of interest that will be certified;
 - C) the date of issuance of any subpoena or warrant in a paternity or child support proceeding with which the responsible relative has failed to comply;
 - D) the right of the responsible relative to prevent certification to the Secretary of State for driver's license suspension by payment of the past-due support amount and interest in full or by entering into a payment plan satisfactory to the Department or to contest the amount of past-due support and interest that is owed by requesting a hearing by the Department within 15 days after the date of mailing by the Department; and
 - E) the right of the responsible relative to prevent certification to the Secretary of State for failure to comply with a subpoena or warrant in a paternity or child support proceeding by complying with the subpoena or warrant or to contest the determination of the failure to comply with the subpoena or warrant by requesting a hearing by

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the Department within 15 days after the date of mailing by the Department.

- 3) Factors for an acceptable payment plan will include, but are not limited to:
 - A) the amount of ~~past-due~~~~past due~~ support and interest owed;
 - B) the amount of current child support ordered to be paid; and
 - C) the responsible relative's ability to pay.
- 4) The responsible relative's commencement of periodic payments on the ~~past-due~~~~past due~~ support amount owed in compliance with a court or administrative order entered prior to the date of the Notice of Intent to Request Suspension of an Illinois driver's license shall be deemed by the Department to be a satisfactory payment plan.
- 5) A written request for hearing made within 15 days after the date of mailing of the Notice of Intent to Request Suspension of an Illinois Driver's License shall stay the Department from certifying past-due support and interest, or failure to comply with a subpoena or warrant, to the Secretary of State.
- 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- 7) Following certification to the Secretary of State for driver's license suspension and upon request of the responsible relative, the Department shall direct the Secretary of State to issue a family financial responsibility driving permit in accordance with Section 10-17.6(b) of the Illinois Public Aid Code and Section 7-702.1(b) of the Illinois Vehicle Code, when the following circumstances exist requiring the responsible relative to operate a motor vehicle:
 - A) between the responsible relative's residence and place of employment, or within the scope of employment related duties, as verified by the employer in writing; or

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- B) for the purpose of providing transportation for the responsible relative or a household member to receive alcohol treatment, other drug treatment, or medical care as verified in writing by the treatment center or physician that includes the duration of treatment; or
 - C) for the purpose of the unemployed responsible relative seeking employment.
- 8) When directing the issuance of a family financial responsibility driving permit for the purpose of seeking employment under subsection (m)(7)(C), the Department shall require that:
- A) the permit be limited to Monday through Friday between the hours of 8:00 a.m. and 12:00 p.m. (noon) unless the responsible relative provides written documentation showing that to so limit the hours of the permit would have an adverse effect on the responsible relative's ability to seek employment; and
 - B) the responsible relative provides to the Department a job search diary every 30 days showing contact with no fewer than 10 potential employers during a 30 day period.
- 9) The maximum duration of a family financial responsibility driving permit shall be one year from the date of issuance by the Secretary of State, with the ability of the responsible relative to request issuance of a new permit after the initial permit has expired.
- 10) The Department may direct the issuance of a family financial responsibility driving permit to the responsible relative only if no alternative means of transportation is reasonably available for the purposes stated in this subsection (m).
- 11) The Department shall direct the Secretary of State to cancel the family financial responsibility driving permit in the event the responsible relative violates the conditions of its issuance.
- 12) Any responsible relative aggrieved by the Department's determination on a request for issuance of a family financial responsibility driving permit may

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file a written request for hearing within 15 days after the date of mailing of the results of the determination to the responsible relative. The Department shall proceed in accordance with 89 Ill. Adm. Code 104.106 upon receipt of a request for hearing.

- n) Certifying ~~Past-Due~~Past-Due Support or Failure to Comply with a Subpoena or Warrant to State Professional, Occupational or Recreational Licensing Agencies
- 1) The Department shall issue a Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License to a responsible relative when the following circumstances exist:
 - A) the amount of ~~past-due~~past-due support is at least \$1,000, and the responsible relative has not made a voluntary payment of support in the last 90 days; or
 - B) the responsible relative has failed to comply with a subpoena or warrant in a paternity or child support proceeding.
 - 2) The Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;
 - B) the ~~past-due~~past-due support amount and the amount of interest that will be certified;
 - C) the date of issuance of any subpoena or warrant in a paternity or child support proceeding with which the responsible relative has failed to comply;
 - D) the right of the responsible relative to prevent certification to the licensing agency by payment of the ~~past-due~~past-due support amount and interest in full or by entering into a payment plan satisfactory to the Department, or to contest the amount of ~~past-due~~past-due support and interest owed by requesting a hearing by the Department within 15 days after the date of mailing by the Department; and

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- E) the right of the responsible relative to prevent certification to the licensing agency for failure to comply with a subpoena or warrant in a paternity or child support proceeding by complying with the subpoena or warrant, or to contest the determination of the failure to comply with the subpoena or warrant by requesting a hearing by the Department within 15 days after the date of mailing by the Department.
- 3) Factors for an acceptable payment plan will include, but are not limited to:
 - A) the amount of ~~past-due~~ support and interest owed;
 - B) the amount of current child support ordered to be paid; and
 - C) the responsible relative's ability to pay.
 - 4) The responsible relative's commencement of periodic payments on the ~~past-due~~ support amount owed in compliance with a court or administrative order entered prior to the date of mailing of the Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall be deemed by the Department to be a satisfactory payment plan.
 - 5) A written request for hearing made within 15 days after the date of mailing of the Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall stay the Department from certifying ~~past-due~~ support and interest or failure to comply with a subpoena or warrant to the licensing agency.
 - 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a timely written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- o) Debit Authorization for Obligor's Who Are Not Subject to Income Withholding
 - 1) The Department shall adopt a child support enforcement debit authorization form that, upon being signed by an obligor, authorizes the State Disbursement Unit to debit the obligor's financial institution account

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periodically in an amount equal to the amount of the child support obligation.

- 2) The Department shall, upon adoption, inform each financial institution conducting business in this State that the child support enforcement debit authorization form has been adopted and is ready for use.
 - 3) The child support enforcement debit authorization form shall include instructions concerning the debiting of accounts held on behalf of obligors and the transfer of the debited amount to the State Disbursement Unit.
 - 4) When an obligor does not have a payor, as defined in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15], he or she must sign a child support enforcement debit authorization form. The obligor must sign a separate child support enforcement debit authorization form for each financial institution holding an account on his or her behalf in which a child support payment is to be debited and transferred to the State Disbursement Unit.
 - 5) The signing and issuance of a child support enforcement debit authorization form does not relieve the obligor from responsibility for compliance with any requirement under the order for support.
 - 6) It is the responsibility of the obligor to notify the State Disbursement Unit in accordance with the instructions provided on the child support enforcement debit authorization form.
- p) Judicial Registration of Administrative Support Orders [and/or Administrative Paternity Orders](#)
- 1) A final administrative support order [and/or a final administrative paternity order, excluding a voluntary acknowledgment or denial of parentage, which is governed by other provisions of the Public Aid Code \[305 ILCS 5\], the Illinois Parentage Act of 1984 \[750 ILCS 45\] and/or 2015 \[750 ILCS 46\], and the Vital Records Act \[410 ILCS 535\]](#), established by the Department under Article X of the Public Aid Code may be registered in the appropriate circuit court of this State by the Department or by a party to the order by filing:

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- A) Two copies, including one certified copy, of the administrative order to be registered;
 - B) Any subsequent modification of the administrative support order;
 - C) Any voluntary ~~acknowledgment~~acknowledgement of paternity of the child covered by the order;
 - D) Documents showing service of the notice of support obligation or the notice of paternity and support obligation that commenced the procedure for establishment of the administrative support order and/or the administrative paternity order as required by Section 10-4 of the Public Aid Code;
 - E) Documentation showing the amount of ~~past-due~~past due support accrued under the administrative order by a sworn statement by the person requesting registration or a certified copy of the Department payment records; and
 - F) A Notice of Registration containing: the name of the obligor and, if known, the obligor's address and the name of the obligee and the obligee's address unless the obligee alleges in an affidavit or pleading under oath that the health, safety or liberty of the party or child would be jeopardized by the disclosure, in which case the information must be sealed and not disclosed to the other party or public. After a hearing, the court may order the disclosure of information that the court determines to be in the interest of justice.
- 2) Every Notice of Registration must be accompanied by a copy of the registered administrative support order and/or the administrative paternity order and the relevant information accompanying the order as noted in subsection (p)(1).
 - 3) The filing of the administrative support order and/or the administrative paternity order constitutes registration with the circuit court.
 - 4) The Department shall certify the administrative support order and/or the administrative paternity order or payment record by attaching a copy of the Department's certification (HFS 390).

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- 5) The registering party shall serve notice of the registration on the other party by first class mail, unless the administrative support order [and/or the administrative paternity order](#) was entered by default or the registering party is also seeking an affirmative remedy. The registering party shall serve notice on the Department in all cases by first class mail.
- A) If the administrative support order [and/or the administrative paternity order](#) was entered by default against the obligor, the obligor must be served with the registration by any method provided by law for service of summons.
- B) If the petition or comparable pleading seeking an affirmative remedy is filed with the registration, the non-moving party must be served with the registration and the affirmative pleading by any method provided by law for service of summons.
- 6) A Notice of Registration of an administrative support order [and/or an administrative paternity order](#) must provide the following information:
- A) That a registered administrative order is enforceable in the same manner as an order for support [and/or an order for paternity](#) issued by the circuit court.
- B) That a hearing to contest enforcement of the registered administrative support order [and/or the registered administrative paternity order](#) must be requested within 30 days after the date of service of the notice.
- C) That failure to contest, in a timely manner, the enforcement of the registered administrative support order [and/or the registered administrative paternity order](#) shall result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted.
- D) The amount of any alleged arrearages.

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- 7) A non-registering party seeking to contest enforcement of a registered administrative support order [and/or a registered administrative paternity order](#) shall request a hearing within 30 days after the date of service of notice of the registration. The non-registering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered administrative support order [and/or the registered administrative paternity order](#), or to contest the remedies being sought or the amount of any alleged arrearages.
- 8) If the non-registering party fails to contest the enforcement of the registered administrative support order [and/or the registered administrative paternity order](#) in a timely manner, the order shall be confirmed by operation of law.
- 9) If a non-registering party requests a hearing to contest the enforcement of the registered administrative support order [and/or the registered administrative paternity order](#), the circuit court shall schedule the matter for hearing and give notice to the parties and the Department of the date, time and place of the hearing.
- 10) A party contesting the enforcement of a registered administrative support order [and/or a registered administrative paternity order](#) or seeking to vacate the registration has the burden of proving one or more of the following defenses:
 - A) The Department lacked personal jurisdiction over the contesting party.
 - B) The administrative support order [and/or the administrative paternity order](#) was obtained by fraud.
 - C) The administrative support order [and/or the administrative paternity order](#) has been vacated, suspended or modified by a later order.
 - D) The Department has stayed the administrative support order [and/or the administrative paternity order](#) pending appeal.
 - E) There is a defense under the law to the remedy sought.

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- F) Full or partial payment has been made.
- 11) If a party presents evidence establishing a full or partial payment defense, the court may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered administrative support order [and/or the registered administrative paternity order](#) may be enforced by all remedies available under State law.
- 12) If the contesting party does not establish a defense to the enforcement of the administrative support order [and/or the administrative paternity order](#), the court shall issue an order confirming the administrative support order [and/or the administrative paternity order](#). Confirmation of the registered administrative support order [and/or the registered administrative paternity order](#), whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration. Upon confirmation, the registered administrative support order [and/or the registered administrative paternity order](#) shall be treated in the same manner as a support order [and/or a paternity order](#) entered by the circuit court, including the ability of the court to entertain a petition to modify the administrative support order due to a substantial change in circumstances [and/or a petition to modify the administrative paternity order due to clear and convincing evidence regarding paternity](#), or petitions for visitation or custody of the child or children covered by the administrative support order. Nothing in this Section shall be construed to alter the effect of a final administrative support order [and/or a final administrative paternity order](#), or to restrict judicial review of a final order to the provisions of the Administrative Review Law, as provided in ~~Sections~~[Section](#) 10-11 [and 10-17.7](#) of the Illinois Public Aid Code.
- 13) [Notwithstanding the limitations of relief provided for under this Section regarding an administrative paternity order and the administrative relief available from an administrative paternity order under Sections 10-12 through 10-14.1 of the Illinois Public Aid Code, a party may petition for relief from a registered final administrative paternity order entered by consent of the parties, excluding a voluntary acknowledgment or denial of paternity as well as an administrative paternity order entered pursuant to](#)

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genetic testing. The petition shall be filed pursuant to Section 2-1401 of the Code of Civil Procedure [735 ILCS 5/2-1401] based upon a showing of due diligence and a meritorious defense. The court, after reviewing the evidence regarding this specific type of administrative paternity order entered by consent of the parties, shall issue an order regarding the petition. Nothing in this Section shall be construed to alter the effect of a final administrative paternity order, or the restriction of judicial review of such a final order to the provisions of the Administrative Review Law [735 ILCS 5/Art. III], as provided in Section 10-17.7 of the Illinois Public Aid Code.

- q) Certification to State Gaming Licensee of ~~Past-Due~~ Past-Due Support
- 1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to State Gaming Licensees (as defined in Section 10-17.15 of the Illinois Public Aid Code). This process will be accomplished via an electronic interface between the Department and the State Gaming Licensee. The Department shall provide signage to the State Gaming Licensee in compliance with the law.
 - 2) The Department shall certify past-due support amounts to be withheld to any State Gaming Licensee when the following conditions exist:
 - A) The amount of ~~past-due~~ past-due support is at least \$1,200 and the responsible relative has not made a voluntary payment within 90 days prior to the certification;
 - B) As of the date of certification, the Department has not received notice of a pending bankruptcy case involving the responsible relative; and
 - C) The State Gaming Licensee has notified the Department regarding the winnings of a responsible relative owing past-due support.
 - 3) The State Gaming Licensee shall withhold from winnings required to be reported to the Internal Revenue Service on Form W2-G, or any subsequent amendment or replacement to that form, for licensees covered under the Riverboat Gambling Act [230 ILCS 10] and the Illinois Horse

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Racing Act of 1975 [230 ILCS 5], with the additional requirement that the winnings are subject to withholding for federal tax purposes for licensees covered under the Illinois Horse Racing Act of 1975, up to the full amount of winnings necessary to pay the responsible relative's past-due support.

- A) "Winnings" means any cash award that results from a specific wager connected with limited gaming or pari-mutuel wagering for which the licensee is required to file form W2-G, or a substantially equivalent form, with the Internal Revenue Service (IRS). "Winnings" do not apply to the awarding of merchandise, other non-cash items, promotional awards, loyalty program awards or other cash prize awards not associated with a specific wagering event.
- B) For the withholding of winnings, the State Gaming Licensee shall be entitled to an administrative fee not to exceed the lesser of 4% of the total amount of cash winnings paid the responsible relative or \$150.
- C) The past-due child support required to be withheld under this subsection (q)(3)(C), and the administrative fee under subsection (q)(3)(B), would have priority over any secured or unsecured claim or charitable contribution requested on cash winnings, except claims for federal or State taxes that are required to be withheld under federal or State law.
- D) In no event shall the total amount withheld from the winnings, including the administrative fee, exceed the total cash winnings claimed. If the amount claimed is greater than the amount sufficient to satisfy the past-due support amount, the State Gaming Licensee shall pay the responsible relative the remaining balance of the payout, less the administrative fee, at the time it is claimed.
- E) The State Gaming Licensee shall provide information required by the Department regarding the responsible relative whose winnings may be subject to being withheld pursuant to this subsection (q)(3) at the time the winnings are redeemed or to be paid by the State Gaming Licensee. At the time the winnings are withheld, an agent of the Illinois Racing Board shall be responsible for notifying the

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person identified as being delinquent in child support payments that the Gaming Licensee under the Illinois Horse Racing Act of 1975 is required by law to withhold all or a portion of the winnings. Upon request of a State Gaming Licensee under the Riverboat Gambling Act, an agent of the Illinois Gaming Board shall be responsible for notifying the person identified as being delinquent in child support payments that the Gaming Licensee is required by law to withhold all or a portion of the winnings. These notice requirements may be satisfied by giving the person a copy of the certification the Department submitted to the State Gaming Licensee.

- 4) As part of the Department's annual notice to responsible relatives who owe past-due child support, as provided for in subsection (b)(3), the Department shall include a statement regarding the Department's ability to certify the past-due balance to a State Gaming Licensee. This advance notice shall inform the responsible relative of the following:
 - A) The IV-D case name and identification number;
 - B) The past-due support amount that will be submitted for collection; and
 - C) The type of collection remedies available to the Department.
- 5) Immediately upon receipt of the information required by subsection (q)(3)(E), the Department's certification to the State Gaming Licensee shall provide the following information regarding the responsible relative:
 - A) Name;
 - B) IV-D identification number;
 - C) The ~~past-due~~ support amount to be withheld;
 - D) The amount of the administrative fee that the State Gaming Licensee may retain; and

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- E) The amount, if any, that may be released to the responsible relative.
- 6) The State Gaming Licensee shall provide the responsible relative with a receipt of the withheld winnings and shall transfer those funds to the Department via electronic transfer. The Department shall hold the funds until the expiration of the period in which the responsible relative may request a hearing or, if a hearing has been requested, until a final administrative decision is rendered.
- 7) The responsible relative may contest the certification by the Department to the State Gaming Licensee by a written request for hearing made to the Department within 15 days after the date of the certification.
- 8) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that subsections (b) and (c) of that Section shall not apply.
- 9) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- 10) The Department shall:
 - A) Apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligations; or
 - B) If the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible, refund to the responsible relative any overpayment, pursuant to the certification for collection, that is still in the possession of the Department.
- 11) Confidentiality
Information provided to and accessed by the State Gaming Licensee is considered confidential.
- r) Other Remedies

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The Department shall pursue any other remedies provided for by law to enforce and collect past-due support owed by responsible relatives in IV-D cases.

- s) For all other hearings provided for under this Section, if the Department's hearing officer determines that the Quantitative Standard for Review has been met or that the party or parties requesting the hearing has or have demonstrated the occurrence of a substantial change in circumstances since entry of the last administrative order of support warranting modification of that order, the hearing officer will recommend entry of a final administrative decision resulting in entry of a new administrative order for support. In recommending terms of the new administrative order for support, either for current support or, in the event that a current support obligation is no longer owed and only past-due support remains, and therefore, periodic payments toward the past-due support must be ordered, the hearing officer shall calculate the new support terms in accordance with the provisions of Section 160.60(c)(2).

(Source: Amended at 41 Ill. Reg. 3338, effective March 7, 2017)

Section 160.75 Withholding of Income to Secure Payment of Support

- a) **Definitions**
The definitions contained in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15] shall apply in this Section.
- b) **Entry of Order for Support Containing Income Withholding Provisions; Income Withholding Notice**
 - 1) The Department, through its legal representative, shall request that when entering an order for support the court include in the order the following income withholding provisions, as required by law:
 - A) that an income withholding notice be prepared by the Department and served immediately upon any payor of the obligor, unless a written agreement is reached between and signed by both parties providing for an alternative arrangement, approved and entered into the record by the court, which ensures payment of support. In that case, the Department, through its legal representative, shall request that the order for support provide that an income withholding notice is to be prepared and served only if the obligor

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- becomes delinquent in paying the order for support; and
- B) a dollar amount to be paid until payment in full of any delinquency that accrues after entry of the order for support; the dollar amount not to be less than 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the order for support; and
 - C) the obligor's Social Security Number disclosed to the court as required by law; and
 - D) if the obligor is not a United States citizen, the obligor's alien registration number, passport number, and home country's social security or national health number disclosed to the court as required by law.
- 2) The income withholding notice prepared by the Department shall:
- A) be in the standard format prescribed by the federal Department of Health and Human Services; and
 - B) state the date of entry of the order for support upon which the income withholding notice is based; and
 - C) direct any payor to withhold the dollar amount required for current support under the order for support; and
 - D) direct any payor to withhold the dollar amount required to be paid periodically under the order for support for payment of the amount of any arrearage stated in the order for support; and
 - E) state the amount of the payor income withholding fee as provided by law; and
 - F) state that the amount actually withheld from the obligor's income for support and other purposes, including the payor's withholding fee, may not be in excess of the maximum amount permitted under the federal Consumer Credit Protection Act; and

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- G) state the duties of the payor and the fines and penalties provided by law for failure to withhold and pay over income and for discharging, disciplining, refusing to hire, or otherwise penalizing the obligor because of the duty to withhold and pay over income; and
 - H) state the rights, remedies, and duties of the obligor, as provided by law; and
 - I) include the Social Security Number of the obligor; and
 - J) contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office, except that the failure to contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office shall not affect the validity of the income withholding notice; and
 - K) direct any payor to pay over amounts withheld for payment of support to the State Disbursement Unit.
- 3) Notwithstanding the exception to immediate income withholding referred to in subsection (b)(1)(A), if the court finds at the time of any hearing that an arrearage has accrued, the Department, through its legal representative, shall request that the court order immediate service of an income withholding notice upon the payor, as required by law.
- c) Service of Income Withholding Notice
- 1) If the order for support requires immediate service of an income withholding notice, the Department shall serve the notice on the payor within two business days after the date the order is received if the payor's address is known on that date, or, if the address is unknown on that date, within two business days after locating the payor's address. If the Department receives the payor's address from the Illinois Directory of New Hires, as established under Section 1801.1 of the Unemployment Insurance Act [820 ILCS 405/1801.1], the Department shall serve an income withholding notice and, where applicable, a National Medical Support Notice, on the payor within two business days after the date

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information regarding the obligor and payor is entered into the Illinois Directory of New Hires.

- 2) The Department may serve the income withholding notice on the payor or its superintendent, manager, or other agent by ordinary mail or certified mail, return receipt requested, by facsimile transmission or other electronic means, by personal delivery, or by any method provided by law for service of a summons. At the time of service on the payor and as notice that withholding has commenced, the Department shall serve a copy of the income withholding notice on the obligor by ordinary mail addressed to his or her last known address. A copy of the income withholding notice together with proofs of service on the payor and the obligor shall be filed by the Department with the Clerk of the Circuit Court.
 - 3) Notwithstanding the fact that the order for support, under the exception to immediate withholding referred to in subsection (b)(1)(A), provides that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support, the Department shall serve an income withholding notice on the payor prior to accrual of a delinquency if the obligor executes a written waiver of that condition and requests immediate service on the payor.
 - 4) At any time after the initial service of an income withholding notice, the Department may serve any other payor of the obligor with the same income withholding notice without further notice to the obligor. A copy of the income withholding notice together with a proof of service on the other payor shall be filed with the Clerk of the Circuit Court.
- d) Income Withholding After Accrual of Delinquency
- 1) The Department shall prepare and serve an income withholding notice within two business days after the date the obligor accrues a delinquency if the payor's address is known on that date, or, if the address is unknown on that date, within two business days after locating the payor's address. If the payor's address is unknown on the date the obligor accrues a delinquency, and the Department receives the payor's address from the Illinois Directory of New Hires, the Department shall serve an income withholding notice on the payor within two business days after the date

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information regarding the obligor and payor is entered into the Illinois Directory of New Hires.

- 2) An income withholding notice prepared by the Department under subsection (d)(1) shall:
 - A) contain the information required under subsection (b)(2); and
 - B) contain the total amount of the delinquency as of the date of the notice; and
 - C) direct the payor to withhold the dollar amount required to be withheld periodically under the order for support for payment of the delinquency; and
 - D) be served on the payor and the obligor in the manner provided in subsection (c)(2).
 - 3) The obligor may contest withholding commenced under this subsection (d) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to:
 - A) a dispute concerning the existence or amount of the delinquency; or
 - B) the identity of the obligor.
 - 4) The accrual of a delinquency as a condition for service of an income withholding notice, under the exception to immediate withholding referred to in subsection (b)(1)(A), shall apply only to the initial service of an income withholding notice on a payor of the obligor.
- e) Initiated Withholding
- 1) Notwithstanding any other provision of this Section, if the court has not required that income withholding take effect immediately, the Department, pursuant to this subsection (e), may initiate withholding regardless of

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whether a delinquency has accrued, by preparing and serving an income withholding notice on the payor that contains the information required under subsection (b)(2) and states that the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A) no longer ensures payment of support, and the reason or reasons why it does not.

- 2) The income withholding notice and the obligor's copy of the income withholding notice shall be served as provided in subsection (c)(2).
 - 3) The obligor may contest withholding commenced under this subsection (e) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to a dispute concerning the conditions in subsections (e)(3)(A) and (B) (it shall not be grounds for filing a petition that the obligor has made all payments due by the date of the petition):
 - A) whether the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A) continues to ensure payment of support; or
 - B) the identity of the obligor.
- f) Petitions to Modify, Suspend or Terminate an Order for Withholding
- 1) At any time the Department, through its legal representative, may petition the court to:
 - A) modify, suspend or terminate the income withholding notice because of a modification, suspension or termination of the underlying order for support;
 - B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or
 - C) suspend the income withholding notice because of inability to

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deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery.

- 2) The Department shall serve on the payor, in the manner provided for service of income withholding notices in subsection (c)(2), a copy of any order entered pursuant to this subsection (f) that affects the duties of the payor.
 - 3) The Department may serve a notice on the payor to:
 - A) cease withholding of income for payment of current support for a child when the support obligation for that child has automatically ceased under the order for support through emancipation or otherwise; or
 - B) cease withholding of income for payment of delinquency or arrearage when the delinquency or arrearage has been paid in full.
 - 4) The notice provided for under subsection (f)(3) shall be served on the payor in the manner provided for service of income withholding notices in subsection (c)(2), and a copy shall be provided to the obligor and the obligee.
- g) **Additional Duties**
The Department shall provide notice to the payor and Clerk of the Circuit Court of any other support payment made, including but not limited to:
- 1) an offset under federal or State law; or
 - 2) partial payment of the delinquency or arrearage or both.
- h) **Alternative Procedures for Service of an Income Withholding Notice**
- 1) The procedures of this subsection (h) shall be used by the Department in any matter to serve an income withholding notice on a payor if:
 - A) For any reason the most recent order for support entered does not contain the income withholding provisions stated in subsection (b), irrespective of whether a separate order for withholding was

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entered prior to July 1, 1997; and

- B) The obligor has accrued a delinquency after entry of the most recent order for support.
- 2) The Department shall prepare and serve the income withholding notice in accordance with the provisions of subsection (d), except that the notice shall contain a periodic amount for payment of the delinquency equal to 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the most recent order for support.
 - 3) If the obligor requests in writing that income withholding become effective prior to the obligor accruing a delinquency under the most recent order for support, the Department shall prepare and serve an income withholding notice on the payor as provided in subsections (b) and (c). In addition to filing proofs of service of the income withholding notice on the payor and the obligor, the Department shall file a copy of the obligor's written request for income withholding with the Clerk of the Circuit Court.
- i) Notice to Payor
Whenever the Department serves an income withholding notice on a payor, notice of the following shall be included in or with the income withholding notice:
 - 1) that the payor must begin deducting no later than the next payment of income that is payable or creditable to the obligor that occurs 14 days following the date the income withholding notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the payor;
 - 2) that the payor must pay the amount withheld to the State Disbursement Unit within seven business days after the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;
 - 3) that if the payor knowingly fails to withhold the amount designated in the income withholding notice or to pay any amounts withheld to the State Disbursement Unit within seven business days after the date the amount would have been paid or credited to the obligor, the payor is subject to a penalty of \$100 for each day that the amount designated in the income

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withholding notice (whether or not withheld by the payor) is not paid to the State Disbursement Unit after the period of seven business days has expired;

- 4) that the payor may combine all amounts withheld for the benefit of an obligee or public office into a single payment and transmit the payment with a listing of obligors from whom withholding has been effected;
- 5) that for each deduction the payor must provide the State Disbursement Unit at the time of transmittal, with the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;
- 6) that for withholding of income, the payor is entitled to a fee not to exceed \$5 per month to be taken from the income to be paid to the obligor;
- 7) that the amount actually withheld for support, the child's health insurance premium and payor withholding fee shall not exceed the maximum amount permitted under the federal Consumer Credit Protection Act (15 USC 1601). Income available for withholding shall be applied first to the current support obligation, then to any premium required for employer, labor union, or trade union-related health insurance coverage ordered under the order for support, and then to payment required on ~~past-due~~past due support obligations. If there is insufficient available income remaining to pay the full amount of the required health insurance premium after withholding of income for the current support obligation, then the remaining available income shall be applied to payments required on ~~past-due~~past due support obligations;
- 8) require that whenever the obligor is no longer receiving income from the payor, the payor must return a copy of the income withholding notice to the Department and provide the obligor's last known address and the name and address of the obligor's new payor, if known;
- 9) that withholding of income under the income withholding notice must be made without regard to any prior or subsequent garnishments, attachments, wage assignments, or any other claims of creditors;
- 10) that the income withholding notice is binding upon the payor until service of an order of the court or a notice from the Department or Clerk of the

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Circuit Court;

- 11) that the payor is subject to a fine of up to \$200 for discharging, disciplining or otherwise penalizing an obligor because of the duty to withhold income;
 - 12) that if the payor willfully fails to withhold or pay over income pursuant to a properly served income withholding notice that the payor is liable for the total amount that the payor willfully failed to withhold or pay over;
 - 13) that if the payor has been served with more than one income withholding notice pertaining to the same obligor, the payor shall allocate income available on a proportionate share basis, giving priority to current support payments; and
 - 14) that a payor who complies with an income withholding notice that is regular on its face is not subject to civil liability with respect to any individual, any agency, or any creditor of the obligor for conduct in compliance with the notice.
- j) Notice to Obligor
When the Department serves a copy of the income withholding notice on the obligor as required under this Section, notice of the following shall be included in or with the obligor's copy of the income withholding notice:
- 1) that income withholding has commenced;
 - 2) the information provided to the payor under subsection (i);
 - 3) the procedures and the permissible grounds for contesting withholding commenced under subsection (d), (e) or (h), as applicable;
 - 4) that at any time the obligor may petition the court to:
 - A) modify, suspend or terminate the income withholding notice because of a modification, suspension or termination of the underlying order for support; or
 - B) modify the amount of income to be withheld to reflect payment in

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full or in part of the delinquency or arrearage by income withholding or otherwise; or

- C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery; or
 - D) correct a term contained in an income withholding notice to conform to that stated in the underlying order for support for:
 - i) the amount of current support;
 - ii) the amount of the arrearage;
 - iii) the periodic amount for payment of the arrearage; or
 - iv) the periodic amount for payment of the delinquency;
 - 5) that the obligor is required by law to notify the obligee, the Department, and the Clerk of the Circuit Court of any new address or payor within seven days after the change; and
 - 6) that where a payor willfully discharges, disciplines, refuses to hire or otherwise penalizes an obligor because of the duty to withhold income, the obligor may file a complaint with the court against the payor, and that the court may order employment or reinstatement of or restitution to the obligor, or may impose a fine upon the payor not to exceed \$200.
- k) Penalties
- In cases where a payor willfully fails to withhold or pay over income, pursuant to a properly served income withholding notice, or otherwise fails to comply with any income withholding duties imposed by law, the Department, through its legal representatives, may request that the court:
- 1) enter judgment against the payor, or an officer or employee of the payor, as provided by law, and direct the enforcement thereof for the total amount that the payor willfully failed to withhold or pay over;
 - 2) impose a penalty or fine upon the payor or invoke any other remedy

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allowed by law.

l) Administrative Fines Imposed by the Department

- 1) The administrative fines provided for under Section 50.5 of the Income Withholding for Support Act [750 ILCS 28] (Withholding Act) are in addition to any existing fines or penalties against a payor of income provided for in that Act and do not affect who would be entitled to receive those existing fines and penalties. In addition to any fines or penalties provided for in the Withholding Act, when a payor of income willfully fails, after receiving two reminders from the Department to withhold or pay over income pursuant to a properly served income withholding notice or otherwise fails to comply with any duties imposed by the Withholding Act, the Department shall, upon a finding of willful failure to comply, impose a fine upon the payor of income not to exceed \$1,000 per payroll period. The fine will be payable to the Department and may be used to defray the costs incurred by the Department in the collection of the past-due support and penalties provided for by the Withholding Act. The Department shall place the fines collected into a special fund created to implement the purposes of Section 50.5 of the Withholding Act and the fines shall be utilized for the purposes provided for in that Section. After deducting the costs incurred by the Department in the collection of the past-due support and penalties provided for in the Withholding Act, the remainder of the fines collected under Section 50.5 shall be distributed proportionally to the counties based on their IV-D population. The counties shall use these funds to assist low income families in defraying the costs associated with seeking parenting time.
- 2) The Department may collect the fine through administrative liens and levies on the real and personal property of the payor of income as provided in Sections 10-25 and 10-25.5 of the Public Aid Code.
- 3) The payor of income may contest the fine as provided in Sections 10-25 and 10-25.5 of the Public Aid Code.
- 4) The Department will implement this subsection (l) by January 1, 2019.

m) Intergovernmental Income Withholding
Within the timeframes specified in subsections (c)(1) and (d)(1), and pursuant to

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the provisions of the Uniform Interstate Family Support Act [750 ILCS 22], the Department shall engage income withholding in cases in which the obligor is receiving income from a payor located in another jurisdiction.

- nm) Use of National Medical Support Notice to Enforce Health Insurance Coverage
- 1) When an order for support is being enforced by the Department under this Section, any requirement for health insurance coverage to be provided through an employer, including withholding of premiums from the income of the obligor, shall be enforced through use of a National Medical Support Notice.
 - 2) A National Medical Support Notice shall be served on the employer in the manner and under the circumstances provided for serving an income withholding notice under this Section, except that an order for support that conditions service of an income withholding notice on the obligor becoming delinquent in paying the order for support shall not prevent immediate service of a National Medical Support Notice by the Department. The Department may serve a National Medical Support Notice on an employer in conjunction with service of an income withholding notice. Service of an income withholding notice is not a condition for service of a National Medical Support Notice, however.
 - 3) At the time of service of a National Medical Support Notice on the employer, the Department shall serve a copy of the Notice on the obligor by ordinary mail addressed to the obligor's last known address. The Department shall file a copy of the National Medical Support Notice, together with proofs of service on the employer and the obligor, with the clerk of the circuit court.
 - 4) Within 20 business days after the date of a National Medical Support Notice, an employer served with the Notice shall transfer the severable notice to plan administrator to the appropriate group health plan providing any health insurance coverage for which the child is eligible. As required in the part of the National Medical Support Notice directed to the employer, the employer shall withhold any employee premium necessary for coverage of the child and shall send any amount withheld directly to the plan. The employer shall commence the withholding no later than the next payment of income that occurs 14 days after the date the National

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Medical Support Notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the employer. Notwithstanding the requirement to withhold premiums from the obligor's income, if the plan administrator informs the employer that the child is enrolled in an option under the plan for which the employer has determined that the obligor's premium exceeds the amount that may be withheld from the obligor's income due to the withholding limitation or prioritization contained in Section 35 of the Income Withholding for Support Act, the employer shall complete the appropriate item in the part of the National Medical Support Notice directed to the employer according to the instructions in the Notice and shall return that part to the Department.

- 5) If one of the following circumstances exists, an employer served with a National Medical Support Notice shall complete the part of the Notice directed to the employer in accordance with the instructions in the Notice and shall return that part to the Department within 20 business days after the date of the Notice:
 - A) The employer does not maintain or contribute to plans providing dependent or family health insurance coverage.
 - B) The obligor is among a class of employees that is not eligible for family health insurance coverage under any group health plan maintained by the employer or to which the employer contributes.
 - C) Health insurance coverage is not available because the obligor is no longer employed by the employer.
- 6) The administrator of a health insurance plan to whom an employer has transferred the severable notice to plan administrator part of a National Medical Support Notice shall complete that part with the health insurance coverage information required under the instructions in the Notice and shall return that part to the Department within 40 business days after the date of the Notice.
- 7) The obligor may contest withholding under this Section based only on a mistake of fact and may contest withholding by filing a petition with the clerk of the circuit court within 20 days after service of a copy of the

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National Medical Support Notice on the obligor. The obligor must serve a copy of the petition on the Department at the address stated in the National Medical Support Notice. The National Medical Support Notice, including the requirement to withhold any required premium, shall continue to be binding on the employer until the employer is served with a court order resolving the contest or until notified by the Department.

- 8) Whenever the obligor is no longer receiving income from the employer, the employer shall return a copy of the National Medical Support Notice to the Department and shall provide information for the purpose of enforcing health insurance coverage under this Section.
- 9) The Department shall promptly notify the employer when there is no longer a current order for health insurance coverage in effect that the Department is responsible for enforcing.
- 10) Unless stated otherwise in this Section, all of the provisions of this Section relating to income withholding for support shall pertain to income withholding for health insurance coverage under a National Medical Support Notice, including but not limited to, the duties of the employer and obligor, and the penalties contained in Section 35 and Section 50 of the Income Withholding for Support Act. In addition, an employer who willfully fails to transfer the severable notice to plan administrator part of a National Medical Support Notice to the appropriate group health plan providing health insurance coverage for which a child is eligible, within 20 business days after the date of the Notice, is liable for the full amount of medical expenses incurred by or on behalf of the child which would have been paid or reimbursed by the health insurance coverage had the severable notice to plan administrator part of the Notice been timely transferred to the group health insurance plan. This penalty may be collected in a civil action that may be brought against the employer in favor of the obligee or the Department.
- 11) When the administrator of a health insurance plan returns the severable notice to plan administrator portion of a National Medical Support Notice to the Department indicating that there is more than one option available for coverage of the child under the plan, the Department, within 20 days after the date the portion is returned, shall consult with the obligee, select from the available options, and inform the plan administrator of the option

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- 08) Refund of Improperly Withheld Amounts
The Department shall promptly refund to the obligor amounts found to have been improperly withheld from the obligor's income.

(Source: Amended at 41 Ill. Reg. 3338, effective March 7, 2017)

Section 160.88 State Case Registry

- a) Pursuant to Section 10-27 of the Illinois Public Aid Code [305 ILCS 5/10-27], the Department shall establish an automated State Case Registry to contain records concerning child support orders for:
- 1) all IV-D cases; and
 - 2) all other cases entered or modified on or after October 1, 1998, and pursuant to Sections 10-10 and 10-11 of the Illinois Public Aid Code [305 ILCS 5/10-10 and 10-11], and pursuant to the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5], the Non-Support of Spouse and Children Act [750 ILCS 15], the Uniform Interstate Family Support Act [750 ILCS 22] or the Illinois Parentage Act of ~~2015 [750 ILCS 46]~~^{1984 [750 ILCS 45]}.
- b) For IV-D cases, the Department shall maintain in the Registry the following information (and any such updated information) that is filed with the Department, or filed with a clerk of the circuit court and provided by the clerk to the Department:
- 1) the names of the custodial and non-custodial parents and of the child or children covered by the order;
 - 2) the dates of birth of the custodial and non-custodial parents, and of the child or children covered by the order;
 - 3) Social Security Numbers of the custodial and non-custodial parents and of the child or children covered by the order;
 - 4) the residential and mailing addresses for the custodial and non-custodial

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- parents;
- 5) the telephone numbers for the custodial and non-custodial parents;
 - 6) the driver's license numbers for the custodial and non-custodial parents;
 - 7) the name, address, and telephone number of each parent's employer or employers;
 - 8) the case identification number;
 - 9) the court docket number and county, for those cases with an order for support entered or modified by the circuit court;
 - 10) the amount of monthly or other periodic support owed under the order and other amounts, including arrearages, interest or late payment penalties, and fees, due or overdue under the order;
 - 11) any amounts described in subsection (b)(10) of this Section that have been collected;
 - 12) the distribution of the collected amounts;
 - 13) the amount of any lien imposed with respect to the order pursuant to Section 10-25 or Section 10-25.5 of the Public Aid Code [305 ILCS 5/10-25 and 10-25.5]; and
 - 14) any other information that may be required under Title IV, Part D, of the Social Security Act or by the federal Department of Health and Human Services.
- c) For all other cases with an order for support entered or modified on or after October 1, 1998, the Department shall maintain in the Registry the following information (and any such updated information) that is filed with the Department, or filed with a clerk of the circuit court and provided by the clerk to the Department:
- 1) the names of the custodial and non-custodial parents, and the child or children covered by the order;

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- 2) the dates of birth of the custodial and non-custodial parents, and of the child or children covered by the order;
 - 3) the Social Security Numbers of the custodial and non-custodial parents, and of the child or children covered by the order;
 - 4) the mailing addresses for the custodial and non-custodial parents;
 - 5) the court docket number and county in which the order for support was entered;
 - 6) any other information that may be required under Title IV, Part D, of the Social Security Act or by the federal Department of Health and Human Services.
- d) The Department shall establish, update, maintain, and monitor IV-D case records in the Registry on the bases of:
- 1) information on administrative actions, administrative and judicial proceedings and orders relating to paternity and support;
 - 2) information obtained from comparison with federal, state, and local sources of information;
 - 3) information on support collections and distribution; and
 - 4) any other relevant information.
- e) Information contained in the Registry shall be subject to all federal and State confidentiality laws and regulations pursuant to 42 USC 654(26); 45 CFR 205.50 and 303.21; 42 CFR 431, Subpart F; 305 ILCS 5/11-9, 11-10, and 11-12; and Illinois Rules of Court.
- f) The Department shall exchange data with other federal, state, and local agencies and other sources of information as necessary to maintain the Registry and with the agencies that administer Section IV, Part A, and Title XIX of the Social Security Act, and any other agency as may be required under Section IV, Part D of the Social Security Act, or regulations promulgated thereunder.

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- g) The Department shall provide to the Federal Case Registry the case information required by the Department of Health and Human Services.

(Source: Amended at 41 Ill. Reg. 3338, effective March 7, 2017)

SUBPART I: INTERGOVERNMENTAL IV-D CASES

Section 160.200 Provision of Services in Intergovernmental IV-D Cases

- a) The Department's Central Registry for Intergovernmental IV-D Cases shall receive, transmit, and respond to inquiries on all incoming intergovernmental IV-D cases.
- b) Within 10 working days after receipt of an intergovernmental IV-D case, the Central Registry shall:
- 1) Ensure that the documentation submitted with the case has been reviewed to determine completeness;
 - 2) Forward the case for necessary action either to the State Parent Locator Service for location services or to the appropriate office for processing;
 - 3) Acknowledge receipt of the case and request any missing documentation; and
 - 4) Inform the initiating agency where the case was sent for action.
- c) If the documentation received with an incoming case is incomplete and cannot be remedied by the Central Registry without the assistance of the initiating agency, the Central Registry shall forward the case for any action that can be taken pending necessary action by the initiating agency.
- d) The Central Registry shall respond to inquiries from initiating agencies within 5 working days after receipt of the request for a case status review.
- e) As the responding State IV-D agency, the Department shall:

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- 1) Accept and process an intergovernmental request for services, regardless of whether the initiating agency elected not to use remedies that may be available under the law of that jurisdiction;
- 2) Within 75 calendar days after receipt of an intergovernmental form and documentation from the Central Registry:
 - A) Provide location services if the request is for location services or the form or documentation does not include adequate location information on the noncustodial parent;
 - B) If unable to proceed with the case because of inadequate documentation, notify the initiating agency of the necessary additions or corrections to the form or documentation;
 - C) If the documentation received with a case is incomplete and cannot be remedied without the assistance of the initiating agency, process the case to the extent possible pending necessary action by the initiating agency;
- 3) Within 10 working days after locating the noncustodial parent in a different state, the Department shall return the forms and documentation, including the new location, to the initiating agency or, if directed by the initiating agency, forward or transmit the forms and documentation to the Central Registry in the state where the noncustodial parent has been located and notify the Department's Central Registry where the case has been sent;
- 4) Within 10 working days after locating the noncustodial parent in a different county within the State, forward or transmit the forms and documentation to the appropriate county and notify the initiating agency and the Department's Central Registry of its action;
- 5) If the initiating agency's request is for a determination of controlling order:
 - A) Cause a controlling order determination to be made within 30 calendar days after receipt of the request or location of the noncustodial parent, whichever occurs later; and

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- B) Notify the initiating state agency, the controlling order state and any state where a support order in the case was issued or registered of the controlling order determination and any reconciled arrearages within 30 calendar days after receipt of the determination;
- 6) Provide any necessary services that it would provide in intrastate IV-D cases, including:
- A) Establishing paternity;
 - B) Establishing a child support obligation;
 - C) Reporting past-due support to consumer reporting agencies;
 - D) Processing and enforcing orders referred by an initiating agency, whether pursuant to UIFSA or other legal processes, using appropriate remedies applied in intrastate cases, and submit the case for federal enforcement techniques as the Department determines to be appropriate, such as administrative offset under 31 CFR 285.1 and passport denial;
 - E) Collecting and monitoring any support payments from the noncustodial parent and forwarding payments to the location specified by the initiating agency. The Department shall include sufficient information to identify the case, indicate the date of collection, and include the Department's case identifier and locator code, as defined in accordance with instructions issued by the federal Office of Child Support Enforcement; and
 - F) Reviewing and adjusting child support orders;
- 7) Provide timely notice to the initiating agency in advance of any court or administrative hearing that may result in establishment or modification of an order;
- 8) Identify any fees or costs deducted from support payments when forwarding payments to the initiating agency;

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- 9) Within 10 working days after receipt after instructions for case closure from an initiating state agency, stop the Department's income withholding notice and close the intergovernmental IV-D case, unless the Department and the initiating state reach an alternative agreement on how to proceed;
 - 10) Notify the initiating agency when a case is closed; and
 - 11) Pay the costs it incurs in processing intergovernmental IV-D cases as the responding IV-D agency, including the costs of genetic testing.
- f) As the initiating Illinois IV-D agency, the Department shall:
- 1) Determine whether there is a support order or orders in effect in a case using the Federal and State Case Registries, State records, information provided by the recipient of services, and other relevant information available to the Department;
 - 2) Determine in which state a determination of controlling order and reconciliation of arrearages may be made when multiple orders exist;
 - 3) Determine whether the noncustodial parent is in another jurisdiction and whether it is appropriate to use the Department's one-state remedies to establish paternity and establish, modify and enforce a support order, including medical support and income withholding;
 - 4) Within 20 calendar days after completing the actions required in subsections (f)(1) through (3) and, if appropriate, receipt of any necessary information needed to process the case:
 - A) Seek through intrastate judicial or administrative action, or refer the case to the appropriate responding state IV-D agency, determination of the controlling order and a reconciliation of arrearages if such a determination is necessary; and
 - B) Refer any intergovernmental IV-D case to the appropriate State Central Registry, Tribal IV-D program, or Central Authority of a country for action, if one-state remedies are not appropriate;

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- 5) Provide the responding agency sufficient, accurate information to act on the case by submitting with each case any necessary documentation and intergovernmental forms required by the responding agency;
- 6) Within 30 calendar days after receipt of the request for information, provide the responding agency with an updated intergovernmental form and any necessary additional documentation, or notify the responding agency when the information will be provided;
- 7) Notify the responding agency at least annually, and upon request in an individual case, of interest charges, if any, owed on ~~past-due~~^{past-due} support under an initiating state order being enforced in the responding jurisdiction;
- 8) Submit all past-due support amounts owed in IV-D cases that meet the certification requirements under Section 160.70(b) for federal tax refund intercept;
- 9) Send a request for review of a child support order to another state in accordance with the provisions of Section 160.65(j);
- 10) Distribute and disburse any support collections received in accordance with the provisions of Subpart F;
- 11) Notify the responding agency within 10 working days after case closure that the Department has closed its case pursuant to the provisions of 45 CFR 303.11 and the basis for case closure;
- 12) Instruct the responding agency to close its interstate case and to stop any withholding order or notice the responding agency has sent to an employer before the Department transmits a withholding notice, with respect to the same case, to the same or another employer unless the Department and the responding agency reach an alternative agreement on how to proceed; and
- 13) If the Department has closed its case pursuant to at 45 CFR 303.11 and has not notified the responding agency to close its corresponding case, make a diligent effort to locate the obligee, including use of the Federal Parent Locator Service and the State Parent Locator Service, and accept, distribute and disburse any payment received from a responding agency.

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- g) General responsibilities. The Department shall:
- 1) Periodically review program performance or intergovernmental IV-D cases to evaluate effectiveness of procedures established under this Section;
 - 2) Use federally-approved forms in intergovernmental IV-D cases, unless a country has provided alternative forms as part of its chapter in the federal publication titled A Caseworker's Guide to Processing Cases with Foreign Reciprocating Countries. The Department shall provide the number of complete sets of required documents needed by the responding agency, if one is not sufficient under the responding agency's law;
 - 3) Transmit requests for information and provide requested information electronically to the greatest extent possible;
 - 4) Within 30 working days after receiving a request, provide any order and payment record information requested by a state IV-D agency for a controlling order determination and reconciliation of arrearages, or notify the state IV-D agency when the information will be provided;
 - 5) Notify the other agency within 10 working days after receipt of new information on an intergovernmental case; ~~and~~
 - 6) Cooperate with requests for the following limited services:
 - A) Quick locate;
 - B) Service of process;
 - C) Assistance with genetic testing;
 - D) Teleconferenced hearings;
 - E) Administrative reviews;
 - F) High-volume automated administrative enforcement in interstate cases under Section 160.70(i); and

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- G) Providing copies of court and administrative orders and payment records;-
- 7) Within 5 days, exclusive of Saturdays, Sundays and legal holidays, after receipt of notice in a record from an initiating, responding or registering tribunal, send a copy of the notice to the petitioner; and
- 8) Within 5 days, exclusive of Saturdays, Sundays and legal holidays, after receipt of communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner.
- h) The provisions for Registration and Modification of Foreign Child-Support Order contained in Section 616 of the Uniform Interstate Family Support Act (UIFSA) [750 ILCS 22/616] shall apply to this Section.
- i) Support Proceeding Under Convention
- 1) The definitions contained in UIFSA Section 701 shall apply to this Section.
- 2) This subsection (i) applies only to a support proceeding under the Convention. In such a proceeding, if a provision of this subsection (i) is inconsistent with subsections (a) through (h) of this Section, this subsection (i) controls.
- 3) The Department is recognized as the agency designated by the United States central authority (i.e., the U.S. Department of State) to perform specific functions under the Convention.
- 4) Initiation by the Department of a support proceeding under the Convention
- A) In a support proceeding, the Department shall:
- i) transmit and receive applications; and
- ii) initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this State.

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- B) The following support proceedings are available to an obligee under the Convention:
- i) recognition or recognition and enforcement of a foreign support order;
 - ii) enforcement of a support order issued or recognized in this State;
 - iii) establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;
 - iv) establishment of a support order if recognition of a foreign support order is refused under the provisions of subsection (i)(7);
 - v) modification of a support order of a tribunal of this State; and
 - vi) modification of a support order of a tribunal of another state or a foreign country.
- C) The following support proceedings are available under the Convention to an obligor against which there is an existing support order:
- i) recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this State;
 - ii) modification of a support order of a tribunal of this State; and
 - iii) modification of a support order of a tribunal of another state or foreign country.
- D) A tribunal of this State may not require security, bond or deposit, however described, to guarantee the payment of costs and expenses in a proceeding under the Convention.

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- 5) Direct Request. The provisions contained in UIFSA Section 705 shall apply to this subsection (i).
- A) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this State applies.
- B) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement.
- 6) The provisions for registration of a Convention support order contained in UIFSA Section 706 shall apply to this subsection (i).
- 7) The provisions for the contest of a registered Convention support order contained in UIFSA Section 707 shall apply to this subsection (i).
- A) Except as otherwise provided in UIFSA Article 7, UIFSA Sections 605 through 608 apply to a contest of a registered Convention support order.
- B) A party contesting a registered Convention support order shall file a contest not later than 30 days after notice of the registration, but if the contesting party does not reside in the United States, the contest must be filed no later than 60 days after notice of the registration.
- C) A contesting party must file in the appropriate tribunal.
- D) If the nonregistering party fails to contest the registered Convention support order by the time specified in subsection (i)(7)(B), the order is enforceable.
- E) The contesting party bears the burden of proof.
- F) In a contest of a registered Convention support order, a tribunal of this State:

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- i) is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and
 - ii) may not review the merits of the order.
- G) A tribunal of this State deciding a contest of a registered Convention support order shall promptly notify the parties of its decision.
- H) A challenge or appeal, if any, does not stay the enforcement of a Convention support order unless there are exceptional circumstances.
- 8) The provisions for recognition and enforcement of registered Convention support orders contained in UIFSA Sections 708 through 710 shall apply to this subsection (i).
- 9) The provisions for modification of a Convention child-support order contained in UIFSA Section 711 shall apply to this subsection (i).

(Source: Amended at 41 Ill. Reg. 3338, effective March 7, 2017)

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- 1) Heading of the Part: Heartsaver AED Grant Code
- 2) Code Citation: 77 Ill. Adm. Code 530
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
530.100	Amendment
530.300	Amendment
530.400	Amendment
530.500	Amendment
530.600	Amendment
530.700	Amendment
- 4) Statutory Authority: Section 2310-371.5 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-371.5]
- 5) Effective Date of Rules: March 10, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: 40 Ill. Reg. 15124; November 4, 2016
- 10) Has JCAR issued a State of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No changes were made as a result of public comment or at the request of JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: The rulemaking implements PA 99-246 and PA 99-501, which added sheriff's offices, municipal police departments and public libraries to the entities eligible to apply for a matching Heartsaver AED Fund grant. This rulemaking also updates the Part with respect to the current Illinois Department of Public Health grant process to provide that applications should be submitted electronically rather than via a written form.
- 16) Information and questions regarding these adopted rules shall be directed to:

Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield IL 62761

217/782-2043
e-mail: dph.rules@illinois.gov

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETYPART 530
HEARTSAVER AED GRANT CODE

Section	
530.100	Definitions
530.200	Referenced Materials
530.300	Eligibility for Grants
530.400	Grant Requirements
530.500	Application Requirements
530.600	Review of Applications
530.700	Use of Grant Funds
530.800	Termination
530.900	Denial, Suspension or Revocation
530.1000	Grant Funds Recovery
530.1100	Hearings

AUTHORITY: Implementing and authorized by Section 2310-371.5 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-371.5].

SOURCE: Adopted at 30 Ill. Reg. 12288, effective June 28, 2006; amended at 34 Ill. Reg. 3622, effective March 2, 2010; amended at 35 Ill. Reg. 19211, effective November 1, 2011; amended at 41 Ill. Reg. 3447, effective March 10, 2017.

Section 530.100 Definitions

Act – the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310].

Applicant – an Illinois *school, public park district, forest preserve district, conservation district, sheriff's office, municipal police department, municipal recreation department, public library, college, or university* that is applying for a grant under this Part. (Section 2310-371.5 of the Act)

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Automated External Defibrillator ~~or (AED)~~ – a medical device heart monitor and defibrillator that:

has received approval of its pre-market notification, filed pursuant to 21 USC 360(k), from the United States Food and Drug Administration;

is capable of recognizing the presence or absence of ventricular fibrillation and rapid ventricular tachycardia, and is capable of determining, without intervention by an operator, whether defibrillation should be performed;

upon determining that defibrillation should be performed, either automatically charges and delivers an electrical impulse to an individual or charges and delivers an electrical impulse at the command of the operator; and

in the case of a defibrillator that may be operated in either an automatic or manual mode, is set to operate in the automatic mode. (Section 10 of the Automated External Defibrillator Act)

Department – the Illinois Department of Public Health.

Director – the Director of the Illinois Department of Public Health.

Fund – the Heartsaver AED Fund in the State Treasury.

Grant Recipient – an Illinois *school, public park district, forest preserve district, conservation district, sheriff's office, municipal police department, municipal recreation department, public library, college, or university* that receives a grant under this Part. (Section 2310-371.5 of the Act)

(Source: Amended at 41 Ill. Reg. 3447, effective March 10, 2017)

Section 530.300 Eligibility for Grants

To be eligible to receive a grant from the Fund, the applicant shall meet all of the following criteria:

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- a) Be an Illinois school, public park district, forest preserve district, conservation district, sheriff's office, municipal police department, municipal recreation department, public library, college, or university (Section 2310-371.5 of the Act);
- b) *Demonstrate that they have the funds to pay 50% of the cost of the AEDs for which matching grant moneys are sought* as that cost is determined by the State Master Contract or by the Department (Section 2310-371.5 of the Act); and
- c) Place the AED into public service within eight weeks after receipt of grant funds.

(Source: Amended at 41 Ill. Reg. 3447, effective March 10, 2017)

Section 530.400 Grant Requirements

- a) Grant recipients shall comply with all applicable provisions of the Automated External Defibrillator Act and the Automated External Defibrillator Code.
- b) Grant recipients shall match the grant award received and shall spend the grant award on the purchase of an AED to be used by the grant recipient.
- c) Grant recipients shall complete and return documentation as prescribed by the Department (e.g., Reimbursement Certification Form or Internal Revenue Service W-9 Form).
- d) Grant recipients shall agree to enter into a Grant Agreement prescribed by the Department.

(Source: Amended at 41 Ill. Reg. 3447, effective March 10, 2017)

Section 530.500 Application Requirements

- a) The application form may be obtained by downloading the application from the Department's website: <https://idphgrants.com/user/login.aspx>. Upon request, the Department will provide application instructions to potential applicants. ~~Applications shall be submitted to the Department through the website established for this purpose or at the following address:~~

~~Heartsaver AED Grants
Illinois Department of Public Health~~

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~~Division of Emergency Medical Systems & Highway Safety
422 South 5th Street, 3rd Floor
Springfield IL 62701~~

- b) Completed applications shall be submitted to the Department electronically through the Department's electronic grant administrative and management system. Faxed and e-mailed applications will not be accepted.
- c) Applications ~~shall be submitted on the form prescribed by the Department and~~ shall include, at a minimum, the following:
- 1) The names, address, chief officers and general description of the applicant, including theThe name, address, e-mail address and phone number of the primary contact and the secondary contact designated by the applicant to be responsible for administering the grant funds;
 - 2) The Federal Employer Identification Number (FEIN) for the applicant; and
 - 3) An agreement by the applicant that, if awarded a grant, the grant will be matched by the grant recipient.

(Source: Amended at 41 Ill. Reg. 3447, effective March 10, 2017)

Section 530.600 Review of Applications

- a) The grant cycle runs from July 1-June 30 of the State's fiscal year~~each year~~.
- b) The Department will review applications for compliance with the requirements of this Part. During the course of its review, the Department may contact the applicant for additional information if the information provided is incomplete, inconsistent or unclear.
- c) Applicants whom the Department determines not to be eligible for grant funds will be notified by e-mail~~in writing of this decision~~.
- d) Distribution of grants is dependent on available funding. Available grant funds will be distributed on a "first come, first served" basis, based on when the Department received the completed application. If the Department receives

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several completed applications on the same date and time and funds are not available to award each of these applicants, a random selection of applications will be used to determine grant recipients.

- e) Applicants shall submit a new application each State fiscal year to be considered for funding. Applications are only applicable to the State fiscal year in which the applications are received.

(Source: Amended at 41 Ill. Reg. 3447, effective March 10, 2017)

Section 530.700 Use of Grant Funds

- a) The entire amount of the grant award, plus matching funds from the facility, shall be used to purchase an AED. AEDs shall be used at facilities owned or controlled by the grant recipient or at events authorized by the grant recipient that are held at facilities owned or controlled by the grant recipient.
- b) *Any school, public park district, forest preserve district, conservation district, sheriff's office, municipal police department, municipal recreation department, public library, college or university applying for the grant shall not receive more than one grant from the Heartsaver AED Fund each fiscal year (Section 2310-317.5 of the Act).*

(Source: Amended at 41 Ill. Reg. 3447, effective March 10, 2017)

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- 1) Heading of the Part: Certified Local Health Department Code
- 2) Code Citation: 77 Ill. Adm. Code 600
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
600.100	Amendment
600.110	Amendment
600.120	New Section
600.200	Amendment
600.210	Amendment
600.400	Amendment
600.410	Amendment
- 4) Statutory Authority: Authorized by Division 5-25 of the Counties Code [55 ILCS 5]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/55].
- 5) Effective Date of Rules: March 9, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: 40 Ill. Reg. 7021; May 6, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The following changes were made a result of comments received during the first notice or public comment period:

In Section 600.100, the definition of accreditation was updated to remove the sentence, "accreditation is not a planning process equivalent to IPLAN."

Section 600.210(d)(1) was amended to add a new subsection (E) to allow a written waiver request to postpone meeting certain requirements in the case that full funding is

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not received by the local health department by State, federal, or any other grant funding sources for any program or programs provided as a requirement for certification.

Section 600.400(a)(2)(E) was amended to provide for the nonalignment of the SHIP with priority health needs of the local public health jurisdiction.

Section 600.400 was amended to add a new subsection (j) to allow results of the PHAB accreditation process to be used to meet the corresponding requirements of the certification process as long as the documents are not duplicated from the previous re-certification cycle.

In response to JCAR, Section 600.410(a)(4) was amended to provide for the nonalignment of the SHIP with priority health needs of the local public health jurisdiction.

In addition various typographical, grammatical, and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The rulemaking updated terms and definitions, removed references to an obsolete database, and updated certification requirements for certified local health departments.
- 16) Information and questions regarding these adopted rules shall be directed to:

Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield IL 62761

217/782-2043

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e-mail: dph.rules@illinois.gov

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER h: LOCAL HEALTH DEPARTMENTS

PART 600
CERTIFIED LOCAL HEALTH DEPARTMENT CODE

SUBPART A: GENERAL

Section	
600.100	Statement of Purpose
600.110	Definitions
600.120	Referenced Materials

SUBPART B: CERTIFICATION APPLICATION REQUIREMENTS

Section	
600.200	Provisional Certification
600.210	Certification

SUBPART C: PERSONNEL REQUIREMENTS

Section	
600.300	Executive Officer
600.310	Public Health Administrator
600.320	Medical Health Officer
600.330	Denial of Personnel Application

SUBPART D: PRACTICE STANDARDS

Section	
600.400	Public Health Practice Standards
600.410	Requirements for IPLAN or an Equivalent Planning Process

SUBPART E: DUE PROCESS

Section	
600.500	Denial, Suspension or Revocation of Certification
600.510	Procedures for Hearings

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AUTHORITY: Implementing and authorized by Division 5-25 of the Counties Code [55 ILCS 5]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/55].

SOURCE: Filed April 17, 1968; emergency amendment at 5 Ill. Reg. 11091, effective October 1, 1981, for a maximum of 150 days; rules repealed, new rules adopted at 6 Ill. Reg. 2716, effective March 1, 1982; codified at 8 Ill. Reg. 18914; amended at 14 Ill. Reg. 840, effective January 1, 1990; new Part adopted by emergency rule at 17 Ill. Reg. 12918, effective July 21, 1993, for a maximum of 150 days; emergency repealer at 17 Ill. Reg. 13115, effective July 21, 1993, for a maximum of 150 days; emergency expired on December 18, 1993; Part repealed, new Part adopted at 18 Ill. Reg. 4276, effective March 1, 1994; amended at 22 Ill. Reg. 14474, effective July 24, 1998; amended at 28 Ill. Reg. 8762, effective June 3, 2004; amended at 41 Ill. Reg. 3454, effective March 9, 2017.

SUBPART A: GENERAL

Section 600.100 Statement of Purpose

- a) This Part has been developed by the Illinois Department of Public Health, in collaboration with the Illinois Association of Public Health Administrators, the Illinois Association of Boards of Health, the Illinois Public Health Association, and the University of Illinois School of Public Health. This Part sets forth requirements for local health departments to be certified by the Department and applies to all local health departments in the State that are conducting or intend to conduct and complete such requirements.
- b) The Department is committed to the mission of public health – to fulfill society's interest in assuring conditions in which people can be healthy. Because of this commitment, the Department has the responsibility to assure that quality public health services are delivered to Illinois citizens. Where possible, it is in the best interest of Illinois citizens to have public health services delivered at the local level by a local health department. A certifiedCertified local health department is a local governmental agency that carries out the core functions of public health, assessment, policy development, and assurance, within its jurisdiction. Any local health department currently recognized by the Department will be eligible to seek certification. Performance of the core public health functions is the unique feature that distinguishes a certifiedCertified local health department from any other public health provider in a local area. The practice standards, included in

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this Part, are activities that demonstrate a local health department is fulfilling the core functions of public health.

- c) Certification is an eligibility requirement for Local Health Protection Grants awarded by the Department. The Department will make other Department grants available to ~~certified~~Certified local health departments, and the Department will give preference to ~~certified~~Certified local health departments for certain grants.

(Source: Amended at 41 Ill. Reg. 3454, effective March 9, 2017)

Section 600.110 Definitions

~~For the purposes of this Part, the words and phrases defined herein shall have the following meanings:~~

"Accreditation" means the measurement of health department performance against a set of nationally recognized, practice-focused and evidence-based standards that leads to the issuance of recognition of achievement by the Public Health Accreditation Board (PHAB), the nonprofit entity created to implement and oversee national public health department accreditation.

"Certification" and "Certified" means certification granted to a local health department that meets the requirements set forth in Section 600.210 and Subparts C and D ~~of this Part~~ and is so designated by the Department.

"Community participation" means involvement by representatives of various community interests and groups. (Agency Note: Examples of such interests or groups are ethnic and racial groups, the medical community, mental health and social service organizations, the cooperative extension service, schools, law enforcement organizations, voluntary organizations, the clergy, the business community, economic development agencies, unions, disabled persons and senior citizens.)

"Contributing factor" means a scientifically established factor that directly affects the level of a risk factor.

"Department" means the Illinois Department of Public Health.

"Director" means the Director of the Illinois Department of Public Health or his or

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[her](#) designee.

"Essential Public Health Services" means the 10 services that describe the responsibilities of public health systems. A formulation of the processes used in public health to prevent epidemics and injuries, protect against environmental hazards, promote healthy behaviors, respond to disasters, and ensure quality and accessibility of health services, the essential public health services are:

monitor health status to identify community health problems;
diagnose and investigate health problems and health hazards in the community;

inform, educate, and empower people about health issues;

mobilize community partnerships to identify and solve health problems;

develop policies and plans that support individual and community health efforts;

enforce laws and regulations that protect health and ensure safety;

link people to needed personal health services and assure the provision of health care when otherwise unavailable;

assure a competent public and personal health care workforce;

evaluate effectiveness, accessibility and quality of personal and population-based health services; and

research for new insights and innovative solutions to health problems.

"Equivalent to IPLAN" means an assessment and planning process approved by the Department [that which](#) meets the requirements set forth in Section 600.410.

"Healthy People-2000" means [a program of nationwide health-promotion and disease-prevention goals set by the United States Department of Health and Human Services. Healthy People provides science-based, national goals and objectives with 10-year targets designed to guide national health promotion and disease prevention efforts to improve the health of all people in the United States.](#)

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~~National Health Promotion and Disease Prevention Objectives, U.S. Department of Health and Human Services, Public Health Service, DHHS publication number (PHS) 91-50212. Healthy People 2000 contains a national strategy for significantly improving the health of the nation during this decade and contains measurable targets for striving toward health promotion and prevention of injuries and diseases.~~

"Impact objective" means a goal for the level to which a ~~risk factor~~health problem should be reduced. An impact objective is intermediate in length of time and measurable.

"Indirect contributing factor" means a community-specific factor that directly affects the level of the direct contributing factors. These factors can vary greatly from community to community.

"IPLAN" means the Illinois Project for Local Assessment of Needs, a process developed by the Department to meet the requirements set forth in Section 600.410. IPLAN is a series of planning activities conducted within the local health department jurisdiction resulting in the development of an organizational capacity assessment, a community health needs assessment, and a community health plan.

"IQuery" means a web-based data query system administered by the Department for the collection and dissemination of Illinois public health data.

~~"IPLAN Data System" means a data base developed by the Department that contains the required data sets to measure community health indicators for assessment purposes.~~

"Legally authorized representative" means the person empowered to act on behalf of the local health department and board of health in such matters as executing contracts, signing applications, and undertaking other major administrative tasks.

"Local health department" means a local governmental agency that administers and assures health-related programs and services within its jurisdiction.

"Local public health jurisdiction" means the geographic area over which a local board of health has legal and regulatory authority.

"Mandate" or "Mandated program" means those programs and activities that are

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statutorily required of local health departments by a legislative body, such as a city council, county board, or the General Assembly.

"Outcome objective" means a goal for the level to which a health problem should be reduced. An outcome objective is long term and measurable.

"Proven intervention strategy" means intervention strategy demonstrated to be effective or used as a national model.

"Provisional ~~certification~~Certification" and "Provisionally ~~certified~~Certified" means certification granted to a local health department that meets the requirements for ~~provisional certification~~Provisional Certification set forth in Section 600.200 and is so designated by the Department.

"Public health system" means the collection of public, private, and voluntary entities, as well as individuals and informal associations, that contribute to the delivery of essential public health services.

"Risk factor" means a scientifically established factor (determinant) that relates directly to the level of a health problem. A health problem may have any number of risk factors identified for it.

"Sentinel event" means any unanticipated event resulting in death or serious physical or psychological injury that could have been prevented or managed by the health care system.

"SHIP" means the State Health Improvement Plan that recommends priorities and strategies to improve the health status of Illinois citizens and to improve the Illinois public health system.

"Substantial compliance" means meeting the requirements set forth in this Part, except for variations from the strict and literal performance of ~~thosesuch~~ requirements ~~that~~which result in insignificant omissions and defects, given the particular circumstances and the incidence and history of ~~thesuch~~ omissions and defects. Omissions and defects that have an adverse impact on public health and safety shall not be considered insignificant and shall be considered substantial noncompliance.

(Source: Amended at 41 Ill. Reg. 3454, effective March 9, 2017)

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Section 600.120 Referenced Materials

The following materials are referenced in this Part:

- a) Civil Administrative Code of Illinois [20 ILCS 5/5-565]
- b) Counties Code [55 ILCS 5/5-25012]
- c) Illinois Municipal Code [65 ILCS 5/11-16-1 and 11-17]
- d) Public Health District Act [70 ILCS 905]
- e) Local Health Department Development Grant Rules (77 Ill. Adm. Code 610)

(Source: Added at 41 Ill. Reg. 3454, effective March 9, 2017)

SUBPART B: CERTIFICATION APPLICATION REQUIREMENTS

Section 600.200 Provisional Certification

- a) A local health department that serves one or more counties and that is not a ~~certified~~Certified local health department may make application for provisional certification~~Provisional Certification~~. ~~The~~Such application shall be submitted to the Department by letter, memorandum, or similar document signed by an authorized representative and shall include a written commitment to the Department to complete IPLAN or an equivalent to IPLAN within two years after provisional certification~~Provisional Certification~~ is granted.
- b) Upon submission of a complete application, the Department shall have 60 days to review the application. Provisional ~~certification~~Certification shall be granted by the Department to any local health department that meets the requirements of subsection (a) ~~of this Section~~. Provisional ~~certification~~Certification shall expire upon ~~certification~~Certification of the local health department or two years after the date provisional certification~~Provisional Certification~~ was granted, whichever is shorter. Provisional ~~certification~~Certification may be renewed as provided in subsection (c) ~~of this Section~~.
- c) A local health department that has been granted provisional

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~~certification~~Provisional Certification may apply for renewal of provisional certification~~Provisional Certification~~. ~~The~~Such application shall be made at least 30 days prior to expiration of the provisional certification~~Provisional Certification~~ by submitting to the Department a letter, memorandum, or similar document signed by an authorized representative. The application shall describe activities that the local health department performed during the current term of provisional certification~~Provisional Certification~~ and future activities that will be undertaken during the renewal term that would be expected to result in the completion of IPLAN or an equivalent to IPLAN.

- 1) Renewal applications that are complete and received by the Department no later than 30 days prior to the expiration of provisional certification~~Provisional Certification~~ shall be considered by the Department.
 - 2) The first renewal of provisional certification~~Provisional Certification~~ shall be made if the Department determines, on the basis of the application, that the applicant can be expected to complete IPLAN or an equivalent to IPLAN by conclusion of the renewal term.
 - 3) The second renewal of provisional certification~~Provisional Certification~~ shall be made if the Department determines, on the basis of a written explanation submitted by the local health department, in addition to the application for renewal specified in this subsection (c), that the applicant can be expected to complete IPLAN or an equivalent to IPLAN by conclusion of the second renewal term. The explanation shall include documentation of the incomplete elements of IPLAN or an equivalent to IPLAN with their expected completion dates and the reasons why the local health department did not complete IPLAN or an equivalent to IPLAN within the first renewal term.
 - 4) A renewal of provisional certification~~Provisional Certification~~ granted by the Department shall not exceed 12 months.
 - 5) No more than two renewals of provisional certification~~Provisional Certification~~ shall be granted to a local health department.
- d) A provisionally certified~~Certified~~ local health department is eligible to apply for a Local Health Department Development Grant, pursuant to ~~the Department's Local~~

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~~Health Department Development Grant Rules (77 Ill. Adm. Code 610).~~

- e) The Department may conduct an on-site review of the local health department and ~~those such~~ documents necessary to determine substantial compliance with this Section.

(Source: Amended at 41 Ill. Reg. 3454, effective March 9, 2017)

Section 600.210 Certification

- a) A ~~provisionally certified~~~~Provisionally Certified~~ local health department may apply for ~~certification~~~~Certification~~.
- 1) ~~The Such~~ application shall be submitted to the Department on forms or in a format provided or prescribed by the Department and shall include a community health needs assessment and a community health plan in accordance with Subpart D ~~of this Part~~. The application shall be signed by an authorized representative.
 - 2) Upon receipt of a complete application, the Department shall have 60 days to review the application to determine if the applicant meets the personnel requirements set forth in Subpart C ~~of this Part~~ and the practice standards set forth in Subpart D ~~of this Part~~.
 - A) If the Department determines that the applicant is in substantial compliance with Subparts C and D ~~of this Part~~, ~~certification~~~~Certification~~ shall be granted by the Department.
 - B) If the Department determines that the applicant is not in substantial compliance with Subparts C and D ~~of this Part~~, ~~certification~~~~Certification~~ shall be denied and the local health department shall be notified in writing of the denial of ~~certification~~~~Certification~~. ~~The Such~~ notification shall specify the reasons for denial of ~~certification~~~~Certification~~ and shall describe the right of the applicant to request a hearing to appeal the denial of ~~certification~~~~Certification~~, pursuant to Section 600.510.
- b) Certification granted to local health departments that apply pursuant to this Section shall expire five years following the date of ~~certification~~~~Certification~~.

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- 1) ~~All certifications set to expire in 2004 will be extended to the same date in 2005. These extensions will be granted automatically without the need for a waiver request. A petition to maintain the 2004 recertification schedule, however, may be submitted to the Department. The petition shall include the name of the local health department, a request to maintain the original recertification renewal date, and the signature of the public health administrator.~~
 - 2) ~~For the period between 2005 and 2007, the Department will implement a staggered certification renewal schedule in which approximately one third of local health departments will be reviewed annually. This review schedule will be developed by the Department in consultation with the local health departments. Thereafter, the certification reviews will occur every five years on this staggered schedule.~~
- c) A ~~certified~~Certified local health department may apply for renewal of ~~certification~~Certification.
- 1) ~~The~~Such an application shall be made at least 60 days prior to the expiration of the ~~certification~~Certification period. An application shall be submitted to the Department on forms or in a format provided or prescribed by the Department and shall include a community health needs assessment and a community health plan in accordance with Subpart D ~~of this Part~~. The application shall be signed by an authorized representative.
 - 2) Upon ~~receipt~~completion of a complete application, the Department shall have 60 days to review the application to determine if the applicant is in substantial compliance with the personnel requirements set forth in Subpart C ~~of this Part~~ and the practice standards set forth in Subpart D ~~of this Part~~.
 - A) If the Department determines that the applicant is in substantial compliance with Subparts C and D ~~of this Part~~, ~~certification~~Certification shall be renewed by the Department for a five-year period.
 - B) If the Department determines that the applicant is not in substantial compliance with Subparts C and D ~~of this Part~~, renewal of

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~~certification~~Certification shall be denied and the local health department shall be notified in writing of the denial of ~~certification~~Certification. ~~The~~Such notification shall specify the reasons for denial of ~~certification~~Certification and shall describe the right of the applicant to request a hearing to appeal the denial of ~~certification~~Certification renewal, pursuant to Section 600.510.

- d) A ~~certified~~Certified local health department that ~~at any time during the period for which the local health department has been granted Certification~~ does not meet all applicable requirements for ~~certifications~~such Certification due to conditions or circumstances beyond the reasonable control of the local health department may make a written request to the Department for a waiver ~~to postpone meeting~~of the requirements set forth in Subparts C and D ~~of this Part~~. ~~The certified local health department may make the waiver request at any time during the period for which the local health department has been granted certification. A waiver will not be required for certification extensions issued under subsection (b) of this Section.~~
- 1) Conditions or circumstances beyond the reasonable control of the local health department shall include, but not be limited to:
- A) Participating in assessment activities with hospitals undertaking community health needs assessments as required by the Internal Revenue Service for 501(c)(3) hospitals;
 - B) Participating in assessment and planning activities required for a local health department seeking voluntary accreditation through PHAB;
 - CA) Unanticipated or unavoidable lack of qualified personnel necessary to fulfill applicable requirements; or
 - DB) Disease outbreaks, natural disasters, and other unusual circumstances ~~that~~which may threaten the health and safety of residents and ~~that~~which require re-assignment of personnel to protect the health and safety of residents within the local health department's jurisdiction.
 - E) Full funding is not received by the local health department on a timely basis from State, federal, or any other grant funding sources

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for any program or programs that are being provided as a requirement for certification.

- 2) The Department shall grant a waiver if it determines that the local health department meets the conditions or circumstances specified in ~~subsections~~subsection (d)(1)(A) and (B) ~~of this Section~~. The Department shall notify the local health department of its decision within 10 working days after the receipt of the request.
- A) A waiver shall be granted for a six-month period or until the conditions or circumstances referred to in subsections (d)(1)(A) and (B) ~~of this Section~~ are remedied, whichever is shorter.
- B) The Department may extend a waiver for ~~threetwo~~ additional six-month periods. All requests for extension of waiver shall be received by the Department at least 15 working days prior to the expiration of the waiver period.
- i) The first ~~or second~~ extension of the waiver shall be made if the Department determines, on the basis of a written explanation from the local health department, that reasonable progress has been made and the local health department can be expected to be in substantial compliance with applicable requirements of ~~certification~~Certification on or before the conclusion of the ~~first~~ extended waiver period.
- ii) The ~~thirdsecond~~ extension of waiver shall be made if the Department determines, on the basis of a written explanation from the local health department, that reasonable progress has been made and the local health department can be expected to be in substantial compliance with applicable requirements of ~~certification~~Certification on or before the conclusion of the ~~thirdsecond~~ extended waiver period. The explanation shall include documentation of the applicable ~~certification~~Certification requirements that are not being met, with the expected dates for completion and the reasons why the local health department was unable to achieve substantial compliance

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within the ~~first~~ extension period.

- 3) The Department shall review the local health department for substantial compliance with ~~certification~~Certification requirements upon the expiration of the waiver period or upon request of the local health department. The Department's review shall include only those certification requirements that are the basis for the waiver.
- A) If the Department, based upon its review, determines that the local health department meets the requirements set forth in Subparts C and D ~~of this Part~~, the local health department shall be considered in substantial compliance with the requirements of ~~certification~~Certification, and no further action shall be taken by the Department.
- B) If the Department, based upon its review, determines that the local health department does not meet the requirements set forth in Subparts C and D ~~of this Part~~ and the waiver has expired, the Department shall notify the local health department of its option to request an extension of waiver under ~~subsection (d)(2)(B)~~this Section.
- C) If the Department, based upon its review, determines that the local health department does not meet the requirements set forth in Subparts C and D ~~of this Part~~ and the local health department's request was submitted prior to the expiration of the waiver period, the waiver shall continue until the end of the six-month period.
- e) The Department may conduct an on-site review of the local health department and ~~those such~~ documents necessary to determine substantial compliance with this Section.

(Source: Amended at 41 Ill. Reg. 3454, effective March 9, 2017)

SUBPART D: PRACTICE STANDARDS

Section 600.400 Public Health Practice Standards

- a) Assess the health needs of the community by establishing a systematic needs

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assessment process that periodically provides information on the health status and health needs of the community.

- 1) A community health needs assessment that systematically describes the prevailing health status and health needs of the population within the local health department's jurisdiction shall be conducted at least once every five years.
 - A) The assessment shall be conducted through completion of IPLAN or an equivalent to IPLAN that meets the requirements set forth in Section 600.410.
 - B) The assessment shall, at a minimum, include an analysis of data in groupings designated by the Department, which are: demographic and socioeconomic characteristics; general health and access to care; maternal and child health; chronic disease; infectious disease; environmental/occupational/injury control; and sentinel events contained in the IPLAN Data System provided by the Department for assessment purposes.
 - C) The assessment shall include community participation in the health needs assessment process in order to facilitate the identification of community health problems and the setting of priorities from among those health problems.
 - D) Community health needs shall be identified during the community health needs assessment process based on the analysis of data describing the health of the population and on the judgment of the community participants concerning the seriousness of the health problems and needs. Prioritization shall result in the establishment of at least three priority health needs.
- 2) A community health needs assessment shall contain:
 - A) A statement of purpose of the community health needs assessment that includes a description of how the assessment will be used to improve health in the community.
 - B) A description of the community participation process, a list of

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community groups involved in the process, and method for establishing priorities.

- C) A description of the health status and health problems most meaningful for the community in the data groupings designated by the Department, which are: demographic and socioeconomic characteristics; general health and access to care; maternal and child health; chronic disease; infectious disease; environmental/occupational/injury control; and sentinel events. ~~in the IPLAN Data System.~~
- D) A description of the process and outcomes of setting priorities.
- E) A statement that the SHIP was reviewed, including a description of the alignment or nonalignment between the priority health needs of the applicable local public health jurisdiction, as identified by the local health department, and the priorities to improve the public health system, as set forth by the SHIP.
- b) Investigate the occurrence of adverse health effects and health hazards in the community by conducting timely investigations that identify the magnitude of health problems, duration, trends, location and populations at risk.
- c) Advocate for public health, build constituencies and identify resources in the community by generating supportive and collaborative relationships with public and private agencies and constituent groups for the effective planning, implementation and management of public health activities. The local health department shall:
- 1) develop and strengthen communication with units of government, health-related organizations, health providers, citizens, and news media;
 - 2) ~~The local health department shall~~ meet at least annually with representatives of health-related organizations within its jurisdiction to define inter-organizational roles and responsibilities; and.
 - 3) ~~The local health department shall~~ disseminate health reports that have been developed by the local health department to the board of health, county board or other legislative bodies within its jurisdiction, the media,

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and the public.

- d) Develop plans and policies to address priority health needs by establishing goals and objectives to be achieved through a systematic course of action that focuses on local community needs and equitable distribution of resources, and involves the participation of constituents and other related governmental agencies. Develop a community health plan that addresses at least three priority health needs, identified pursuant to Section 600.400, during each certification period.;
- 1) The local health department shall include in its community health plan an analysis to establish risk factors and contributing factors for each priority health need, to determine the adequacy of existing resources, and to identify population groups at risk of poor health status within the local health department's jurisdiction.
 - 2) The community health plan shall present measurable objectives and strategies for intervention for each priority health need.
 - 3) The local health department shall utilize community participation to assist in the development of the community health plan.
 - 4) In jurisdictions where a board of health exists pursuant to Section 5-25012 of the Counties Code, ~~(Ill. Rev. Stat. 1991, ch. 34, par. 5-25012)~~ [55 ILCS 5/5-25012]; Division 16 or 17 of the Illinois Municipal Code, ~~(Ill. Rev. Stat. 1991, ch. 24, par. 11-16-1 and par. 11-17-1 through 11-17-12)~~ [65 ILCS 5/11-16-1 and 5/11-17]; or the Public Health District Act ~~(Ill. Rev. Stat. 1991, ch. 111½, par. 0.01 et seq.)~~ [70 ILCS 905], the local health department shall present the community health plan to the board of health for its review. A community health plan shall be adopted by the board of health.
 - 5) The local health department shall submit the community health plan to the Department. The plan shall contain:
 - A) A statement of purpose of the community health plan that includes how the plan will be used to improve the health of the community;
 - B) A description of the process used to develop the community health plan;

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- C) A description of each priority, including the importance of the priority health need, summarized data and information on which the priority is based, the relationship of the priority to [Healthy People national health objectives, 2000 National Health Objectives and subsequent revisions](#) and factors influencing the level of the problem (e.g., risk factors, contributing and indirect contributing factors);
 - D) At least one measurable outcome objective covering a [three or more year](#)~~five-year~~ time frame related to each priority health need;
 - E) At least one measurable impact objective related to each outcome objective; and
 - F) At least one proven intervention strategy to address each impact objective. The description should include a discussion of: community resources that will contribute to implementation; estimated funding needed for implementation; and anticipated sources of funding.
- e) Manage resources and develop organizational structure through the acquisition, allocation and control of human, physical and fiscal resources; and maximizing the operational functions of the local public health systems through coordination of community agencies' efforts and avoidance of duplication of services.
- 1) The local health department shall, at least once every five years, perform an organizational capacity self-assessment that meets the requirements set forth in Section 600.410. The local health department shall provide the Department with a statement signed by an authorized representative indicating that the organizational capacity self-assessment was completed by the local health department and reviewed by the board of health.
 - 2) The local health department shall maintain a current organizational chart [that which](#) includes all functional elements of the organization and their relationship to each other.
 - 3) The local health department shall maintain current written job descriptions, minimum qualifications for each position, and written plans

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or policies regarding staff recruitment, selection, development, and retention.

- 4) The local health department shall notify the Department in writing within 10 business days after the effective date of the termination, resignation or leave of absence of the public health administrator or other personnel required under Subpart C.
- f) Implement programs and other arrangements assuring or providing direct services for priority health needs identified in the community health plan by taking actions thatwhich translate plans and policies into services.
- g) Evaluate programs and provide quality assurance in accordance with applicable professional and regulatory standards to ensure that programs are consistent with plans and policies, and provide feedback on inadequacies and changes needed to redirect programs and resources.
 - 1) The local health department shall conduct periodic reviews of programs, services, and personnel to demonstrate compliance with applicable professional and regulatory standards.
 - 2) The local health department shall conduct monitoring of programs to assess achievement of mandated programs and progress towards meeting community health objectives as stated in the community health plan.
- h) Inform and educate the public on public health issues of concern in the community, promoting an awareness about public health services availability, and health education initiatives thatwhich contribute to individual and collective changes in health knowledge, attitudes and practices towards a healthier community.
- i) Documentation of each activity conducted pursuant to Subpart D ~~of this Part~~ shall be available for review by the Department upon request.
- j) The results of the PHAB Accreditation including the community health assessment, organizational capacity or strategic plan and the health plan may be used to meet the corresponding requirements of the certification process as long as the documents are not duplicated from the previous recertification cycle.

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(Source: Amended at 41 Ill. Reg. 3454, effective March 9, 2017)

Section 600.410 Requirements for IPLAN or an Equivalent Planning Process

- a) IPLAN or a planning process equivalent to IPLAN shall meet the following requirements:
- 1) The process shall involve community participation in the identification of community health problems, priority-setting, and completion of the community health needs assessment and community health plan.
 - 2) ~~The list of community~~Community health indicators published on the IQuery web site~~contained in the IPLAN Data System provided by the Department for assessment purposes or a similar, equally comprehensive data system developed by the local health department~~ shall be utilized to structure the minimal content of the assessment. A local health department may use in its assessment IQuery data and such additional data available that describes, describing the health of its population, including natality, mortality, morbidity and risk factors for illness in its jurisdiction.
 - 3) The process shall result in the setting of priority health needs.
 - 4) The process shall include a review of the SHIP by the local health department and a description of the alignment or nonalignment between the priority health needs for the applicable local public health jurisdiction, as identified by the local health department, and the priorities to improve the public health system set forth by the SHIP.
 - ~~5~~4) The process shall include an analysis of priority problems that shall lead to the establishment of objectives and strategies for intervention.
 - ~~6~~5) The process shall include board of health adoption of the community health plan.
 - ~~7~~6) The process for developing an assessment of organizational capacity shall address:
 - A) the internal capabilities of the local health department to conduct effective public health functions, including an assessment of

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operational authority, community relations, information systems, and program management; or

- B) an organizational strategic plan developed within the previous five years that assesses strengths, weaknesses, opportunities and threats in the local health jurisdiction.
- b) Upon written request of a local health department, the Department shall approve a planning process equivalent to IPLAN if the Department determines that the proposed equivalent planning process complies with the requirements of subsection (a) ~~of this Section~~. If the local health department is not satisfied with the Department's response to its request ~~made pursuant to this subsection~~, it may petition the Director to reconsider.

(Source: Amended at 41 Ill. Reg. 3454, effective March 9, 2017)

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- 1) Heading of the Part: Regionalized Perinatal Health Care Code
- 2) Code Citation: 77 Ill. Adm. Code 640
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
640.42	Amendment
640.50	Amendment
- 4) Statutory Authority: Developmental Disability Prevention Act [410 ILCS 250]
- 5) Effective Date of Rules: March 9, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: 40 Ill. Reg. 10728; August 12, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: In response to public comment, the proposed amendment to Section 640.41 was withdrawn by the Department. There were no changes made in response to comments or suggestions of JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking clarifies the resource, personnel, and competence assessment requirements of the Regionalized Perinatal Health Care Code, provides for PAC members to participate remotely in hospital designation and

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redesignation site visits, and clarifies the number of members required to participate in a hospital designation or redesignation site visit.

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

Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield IL 62761

217/782-2043
e-mail: dph.rules@illinois.gov

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER I: MATERNAL AND CHILDCAREPART 640
REGIONALIZED PERINATAL HEALTH CARE CODE

Section	
640.10	Scope (Repealed)
640.20	Definitions
640.25	Incorporated and Referenced Materials
640.30	Perinatal Advisory Committee
640.40	Standards for Perinatal Care
640.41	Level I – Standards for Perinatal Care
640.42	Level II and Level II with Extended Neonatal Capabilities – Standards for Perinatal Care
640.43	Level III – Standards for Perinatal Care
640.44	Administrative Perinatal Center
640.45	Department of Public Health Action
640.50	Designation and Redesignation of Non-Birthing Center, Level I, Level II, Level II with Extended Neonatal Capabilities, Level III Perinatal Hospitals and Administrative Perinatal Centers
640.60	Application for Hospital Designation or Redesignation as a Non-Birthing Center Level I, Level II, Level II with Extended Neonatal Capabilities, Level III Perinatal Hospital and Administrative Perinatal Center, and Assurances Required of Applicants
640.70	Minimum Components for Letters of Agreement Between Non-Birthing Center, Level I, Level II, Level II with Extended Neonatal Capabilities, or Level III Perinatal Hospitals and Their Administrative Perinatal Center
640.80	Regional Perinatal Networks – Composition and Funding
640.85	Exceptions to Part 640
640.90	State Perinatal Reporting System
640.100	High-Risk Follow-up Program
640.APPENDIX A	Standardized Perinatal Site Visit Protocol
640.APPENDIX B	Outcome Oriented Data: Perinatal Facility Designation/Redesignation (Repealed)
640.EXHIBIT A	Outcome Oriented Data Form (Repealed)
640.EXHIBIT B	Data Collection Exception Form (Repealed)

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- 640.APPENDIX C Maternal Discharge Record (Repealed)
 640.EXHIBIT A Maternal Discharge Record Form (Repealed)
 640.EXHIBIT B Instructions for Completing Maternal Discharge Record (Repealed)
- 640.APPENDIX D Report of Local Health Nurse, Maternal – Prenatal (Repealed)
 640.EXHIBIT A Local Health Nurse, Maternal – Prenatal Form (Repealed)
 640.EXHIBIT B Instructions for Completing the Report of Local Health Nurse, Maternal – Prenatal (Repealed)
- 640.APPENDIX E Report of Local Health Nurse, Maternal – Postnatal (Repealed)
 640.EXHIBIT A Local Health Nurse, Maternal – Postnatal Form (Repealed)
 640.EXHIBIT B Instruction for Completing the Report of Local Health Nurse, Maternal – Postnatal (Repealed)
- 640.APPENDIX F Report of Local Health Nurse, Infant (Repealed)
 640.EXHIBIT A Local Health Nurse, Infant Form (Repealed)
 640.EXHIBIT B Instructions for Completing the Report of Local Health Nurse, Infant (Repealed)
- 640.APPENDIX G Sample Letter of Agreement
- 640.APPENDIX H Written Protocol for Consultation/Transfer/Transport
 640.EXHIBIT A Level I: Patients for consultation with _____ (Level III hospital or Administrative Perinatal Center)
 640.EXHIBIT B Level II: Patients for consultation with or transfer to _____ (Level III hospital or Administrative Perinatal Center)
 640.EXHIBIT C Level I: Maternal and neonatal patients to be cared for at _____ hospital (Level III hospital or Administrative Perinatal Center)
 640.EXHIBIT D Level II: Maternal and neonatal patients to be cared for at _____ hospital (Level III hospital or Administrative Perinatal Center)
- 640.APPENDIX I Perinatal Reporting System Data Elements
- 640.APPENDIX J Guideline for Application Process for Designation, Redesignation or Change in Designation
- 640.APPENDIX K Elements for Submission for Designation, Redesignation or Change in Designation
- 640.APPENDIX L Level I Resource Checklist
- 640.APPENDIX M Level II Resource Checklist
- 640.APPENDIX N Level II with Extended Neonatal Capabilities Resource Checklist
- 640.APPENDIX O Level III Resource Checklist

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AUTHORITY: Implementing and authorized by the Developmental Disability Prevention Act [410 ILCS 250].

SOURCE: Adopted at 5 Ill. Reg. 6463, effective June 5, 1981; amended at 6 Ill. Reg. 3871, effective March 29, 1982; emergency amendment at 8 Ill. Reg. 882, effective January 5, 1984, for a maximum of 150 days; amended and codified at 8 Ill. Reg. 19493, effective October 1, 1984; amended at 9 Ill. Reg. 2310, effective February 15, 1985; amended at 10 Ill. Reg. 5141, effective April 1, 1986; amended at 11 Ill. Reg. 1584, effective February 1, 1987; Part repealed and new Part adopted at 14 Ill. Reg. 12749, effective October 1, 1990; amended at 24 Ill. Reg. 12574, effective August 4, 2000; amended at 35 Ill. Reg. 2583, effective January 31, 2011; amended at 41 Ill. Reg. 3477, effective March 9, 2017.

Section 640.42 Level II and Level II with Extended Neonatal Capabilities – Standards for Perinatal Care

To be designated as Level II or Level II with Extended Neonatal Capabilities, a hospital shall apply to the Department as described in Section 640.60 of this Part; shall comply with all of the conditions described in Subpart O of the Hospital Licensing Requirements that are applicable to the level of care necessary for the patients served; and shall comply with the following provisions (specifics regarding standards of care for both mothers and neonates as well as resource requirements to be provided shall be defined in the hospital's letter of agreement with its APC):

a) Level II and Level II with Extended Neonatal Capabilities – General Provisions

A Level II or Level II with Extended Neonatal Capabilities hospital shall:

- 1) Provide all services outlined for Level I (Section 640.41(a));
- 2) Provide diagnosis and treatment of selected high-risk pregnancies and neonatal problems;
- 3) Accept selected neonatal transports from Level I or other Level II hospitals as identified in the letter of agreement with the APC; and
- 4) Maintain a system for recording patient admissions, discharges, birth weight, outcome, complications and transports to support network CQI activities described in the hospital's letter of agreement with the APC. The hospital shall comply with the reporting requirements of the State

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Perinatal Reporting System.

- b) Level II – Standards for Maternal Care
- 1) The following maternal patients are considered to be appropriate for management and delivery by the primary physician at Level II hospitals without requirement for a maternal-fetal medicine consultation; however, the hospital's letter of agreement shall establish the specific conditions for the Level II hospital:
 - A) Those listed for Level I (see Section 640.41(b));
 - B) Normal current pregnancy although obstetric history may suggest potential difficulties;
 - C) Selected medical conditions controlled with medical treatment such as, mild chronic hypertension, thyroid disease, illicit drug use, urinary tract infection, and non-systemic steroid-dependent reactive airway disease;
 - D) Selected obstetric complications that present after 32 weeks gestation, such as, mild pre-eclampsia/pregnancy induced hypertension, placenta previa, abruptio placenta, premature rupture of membranes or premature labor;
 - E) Other selected obstetric conditions that do not adversely affect maternal health or fetal well-being, such as, normal twin gestation, hyperemesis gravidium, suspected fetal macrosomia, or incompetent cervical os;
 - F) Gestational diabetes, Class A1 (White's criteria).
 - 2) The attending health care provider shall consult a maternal-fetal medicine subspecialist, as detailed in the letter of agreement with the APC and outlined in the hospital's obstetric department policies and procedures, for each of, but not limited to, the current pregnancy conditions listed in Section 640.Appendix H.Exhibit B. Subsequent patient management and site of delivery shall be determined by mutual collaboration between the patient's physician and the maternal-fetal medicine subspecialist.

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- 3) Hospitals shall have the capability for continuous electronic maternal-fetal monitoring for patients identified at risk, with staff available 24 hours a day, including physician and nursing, who are knowledgeable of electronic maternal-fetal monitoring use and interpretation. Physicians and nurses shall complete a competence assessment in electronic maternal-fetal monitoring every two years.
- c) Level II – Standards for Neonatal Care
- 1) The following neonatal patients are considered appropriate for Level II hospitals without a requirement for neonatology consultation:
 - A) Those listed for Level I (see Section 640.41(c));
 - B) Premature infants at 32 or more weeks gestation who are otherwise well;
 - C) Infants with mild to moderate respiratory distress (not requiring assisted ventilation in excess of six hours);
 - D) Infants with suspected neonatal sepsis, hypoglycemia responsive to glucose infusion, and asymptomatic neonates of diabetic mothers; and
 - E) Infants with a birth weight greater than 1500 grams who are otherwise well.
 - 2) The attending physician shall consult a neonatologist for the following neonatal conditions. Consultation shall be specified in the letter of agreement with the APC and outlined in the hospital's pediatric department policies and procedures for conditions including, but not limited to:
 - A) Birth weight less than 1500 grams;
 - B) 10 minute Apgar scores of 5 or less;

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- C) Handicapping conditions or developmental disabilities that threaten subsequent development in an otherwise stable infant.
- 3) Minimum conditions for transport shall be specified in the letter of agreement and outlined in the hospital's pediatric department policies and procedures for conditions including, but not limited to:
- A) Premature birth that is less than 32 weeks gestation;
 - B) Birth weight less than 1500 grams;
 - C) Assisted ventilation beyond the initial stabilization period of six hours;
 - D) Congenital heart disease associated with cyanosis, congestive heart failure or impaired peripheral blood flow;
 - E) Major congenital malformations requiring immediate comprehensive evaluation or neonatal surgery;
 - F) Neonatal surgery requiring general anesthesia;
 - G) Sepsis, unresponsive to therapy, associated with persistent shock or other organ system failure;
 - H) Uncontrolled seizures;
 - I) Stupor, coma, hypoxic ischemic encephalopathy Stage II or greater;
 - J) Double-volume exchange transfusion;
 - K) Metabolic derangement persisting after initial correction therapy;
 - L) Handicapping conditions that threaten life for which transfer can improve outcome.
- d) Level II – Resource Requirements
Resources shall include all those listed for Level I (Section 640.41(d)) as well as

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the following:

- 1) Experienced blood bank technicians shall be immediately available in the hospital for blood banking procedures and identification of irregular antibodies. Blood component therapy shall be readily available.
 - 2) Experienced radiology technicians shall be immediately available in the hospital with professional interpretation available 24 hours a day. Ultrasound capability shall be available 24 hours a day. In addition, Level I ultrasound and staff knowledgeable in its use and interpretation shall be available 24 hours a day.
 - 3) Clinical laboratory services shall include microtechnique blood gases in 15 minutes and electrolytes and coagulation studies within one hour.
 - 4) Personnel skilled in phlebotomy and intravenous (IV) placement in the newborn shall be available 24 hours a day.
 - 5) Social work services provided by one social worker, with relevant experience and responsibility for perinatal patients, shall be available through the hospital social work department.
 - 6) Protocols for discharge planning, routine follow-up care, and developmental follow-up shall be established.
 - 7) A respiratory care practitioner with experience in neonatal care shall be available.
 - 8) One dietitian with experience in perinatal nutrition shall be available to plan diets to meet the needs of mothers and infants.
 - 9) Capability to provide neonatal resuscitation in the delivery room shall be satisfied by current completion of a nationally recognized neonatal resuscitation program by medical, nursing and respiratory care staff or a hospital rapid response team.
- e) Application for Designation, Redesignation or Change in Network

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- 1) To be designated or to retain designation, a hospital shall submit the required application documents to the Department. For information needed to complete any of the processes, see Section 640.50 and Section 640.60.
- 2) The following information shall be submitted to the Department to facilitate the review of the hospital's application for designation or redesignation:
 - A) Appendix A (fully completed);
 - B) Resource Checklist (fully completed) (Appendices L, M, N and O);
 - C) A proposed letter of agreement between the hospital and the APC (unsigned); and
 - D) The curriculum vitae for all directors of patient care, i.e., obstetrics, neonatal, ancillary medical care and nursing (both obstetrics and neonatal).
- 3) When the information described in subsection (e)(2) is submitted, the Department will review the material for compliance with this Part. This documentation will be the basis for a recommendation for approval or disapproval of the applicant hospital's application for designation.
- 4) The medical co-directors of the APC (or their designees), the medical directors of obstetrics and maternal and newborn care, and a representative of hospital administration from the applicant hospital shall be present during the PAC's review of the application for designation.
- 5) The Department will make the final decision and inform the hospital of the official determination regarding designation. The Department's decision will be based upon the recommendation of the PAC and the hospital's compliance with this Part and may be appealed in accordance with Section 640.45. The Department will consider the following criteria or standards to determine if a hospital is in compliance with this Part:

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- A) Maternity and Neonatal Service Plan (Subpart O of the Hospital Licensing Requirements);
 - B) Proposed letter of agreement between the applicant hospital and its APC, in accordance with Section 640.70;
 - C) Appropriate outcome information contained in Appendix A and the Resource Checklist;
 - D) Other documentation that substantiates a hospital's compliance with particular provisions or standards of perinatal care set forth in this Part; and
 - E) Recommendation of Department program staff.
- f) Level II with Extended Neonatal Capabilities – Standards for Special Care Nursery Services
- 1) The following patients are considered appropriate for Level II with Extended Neonatal Capabilities hospitals with SCN services:
 - A) Those listed in subsection (c) of this Section;
 - B) Infants with low birth weight greater than 1250 grams;
 - C) Premature infants of 30 or more weeks gestation;
 - D) Infants on assisted ventilation.
 - 2) For each of the following neonatal conditions, consultation between the Level II with Extended Neonatal Capabilities attending physician and the APC or Level III neonatologist is required. The attending neonatologist at the Level II with Extended Neonatal Capabilities hospital and the attending neonatologist at the APC or Level III hospital shall determine, by mutual collaboration, the most appropriate hospital to continue patient care. The Level II hospital with Extended Neonatal Capabilities shall develop a prospective plan for patient care for those infants who remain at the hospital. Both the letter of agreement with the APC and the hospital's department of pediatrics' policies and procedures shall identify conditions

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that might require transfer to a Level III hospital, including, but not limited to::

- A) Premature birth that is less than 30 weeks gestation;
 - B) Birth weight less than or equal to 1250 grams;
 - C) Conditions listed in subsections (c)(3)(C) through (L) of this Section.
- g) Level II with Extended Neonatal Capabilities – Resource Requirements
- 1) Resources shall include all those listed in Section 640.41(d) for Level I care and in Section 640.42(d) for Level II care, as well as the following:
 - A) Obstetric activities shall be directed and supervised by a full-time ~~board-certified~~ obstetrician [certified by the American Board of Obstetrics and Gynecology](#) or a licensed osteopathic physician with equivalent training and experience and certification by the American Osteopathic Board of [Obstetrics and Gynecology](#). ~~Obstetricians and Gynecologists.~~
 - B) Neonatal activities shall be directed and supervised by a full-time pediatrician certified by the American Board of Pediatrics Sub-Board of Neonatal/Perinatal Medicine or [a licensed](#) ~~an~~ osteopathic physician with equivalent training and experience and certification by the American Osteopathic Board of Pediatricians.
 - C) The directors of obstetric and neonatal services shall ensure the back-up supervision of their services when they are unavailable.
 - D) The obstetric-newborn nursing services shall be directed by a full-time nurse experienced in perinatal nursing, preferably with a master's degree.
 - E) The pediatric-neonatal respiratory therapy services shall be directed by a full-time respiratory care practitioner with at least three years experience in all aspects of pediatric and neonatal respiratory therapy, with a bachelor's degree and completion of the

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neonatal/pediatric specialty examination of the National Board for Respiratory Care.

- F) Preventive services shall be designated to prevent, detect, diagnose and refer or treat conditions known to occur in the high risk newborn, such as: cerebral hemorrhage, visual defects (retinopathy of prematurity), and hearing loss, and to provide appropriate immunization of high-risk newborns.
 - G) A person shall be designated to coordinate the local health department community nursing follow-up referral process, to direct discharge planning, to make home care arrangements, to track discharged patients, and to collect outcome information. The community nursing referral process shall consist of notifying the high-risk infant follow-up nurse in whose jurisdiction the patient resides. The Illinois Department of Human Services will identify and update referral resources for the area served by the unit.
 - H) Each Level II hospital with Extended Neonatal Capabilities shall develop, with the help of the APC, a referral agreement with a neonatal follow-up clinic to provide neuro-developmental assessment and outcome data on the neonatal population. Hospital policies and procedures shall describe the at-risk population and referral procedure to be followed.
 - I) If the Level II hospital with Extended Neonatal Capabilities transports neonatal patients, the hospital shall comply with Guidelines for Perinatal Care, American Academy of Pediatrics and American College of Obstetricians and Gynecologists.
- 2) To provide for assisted ventilation of newborn infants beyond immediate stabilization, the Level II hospital with Extended Neonatal Capabilities shall also provide the following:
- A) Effective July 1, 2011, a pediatrician or advanced practice nurse whose professional staff privileges granted by the hospital specifically include the management of critically ill infants and newborns receiving assisted ventilation; or an active candidate or board-certified neonatologist shall be in the hospital the entire time

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the infant is receiving assisted ventilation. If infants are receiving on-site assisted ventilation care from an advanced practice nurse or a physician who is not a neonatologist, an active candidate or board-certified neonatologist shall be available on call to assist in the care of those infants as needed.

- B) Suitable backup systems and plans shall be in place to prevent and respond appropriately to sudden power outage, oxygen system failure, and interruption of medical grade compressed air delivery.
 - C) Nurses caring for infants who are receiving assisted ventilation shall have documented competence and experience in the care of those infants.
 - D) A respiratory care practitioner with documented competence and experience in the care of infants who are receiving assisted ventilation shall also be available to the nursery during the entire time that the infant receives assisted ventilation.
- h) Application for Designation, Redesignation or Change in Network
- 1) To be designated or to retain designation, a hospital shall submit the required application documents to the Department. For information needed to complete any of the processes, see Section 640.50 and Section 640.60.
 - 2) The following information shall be submitted to the Department to facilitate the review of the hospital's application for designation or redesignation:
 - A) Appendix A (fully completed);
 - B) Resource Checklist (fully completed) (Appendices L, M, N and O);
 - C) A proposed letter of agreement between the hospital and the APC (unsigned); and

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- D) The curriculum vitae for all directors of patient care, i.e., obstetrics, neonatal, ancillary medical, and nursing (both obstetrics and neonatal).
- 3) When the information described in subsection (h)(2) is submitted, the Department will review the material for compliance with this Part. This documentation will be the basis for a recommendation for approval or disapproval of the applicant hospital's application for designation.
- 4) The medical co-directors of the APC (or their designees), the medical directors of obstetrics and maternal and newborn care, and a representative of hospital administration from the applicant hospital shall be present during the PAC's review of the application for designation.
- 5) The Department will make the final decision and inform the hospital of the official determination regarding designation. The Department's decision will be based upon the recommendation of the PAC and the hospital's compliance with this Part, and may be appealed in accordance with Section 640.45. The Department shall consider the following criteria or standards to determine if a hospital is in compliance with this Part:
- A) Maternity and Neonatal Service Plan (Subpart O of the Hospital Licensing Requirements);
- B) Proposed letter of agreement between the applicant hospital and its APC in accordance with Section 640.70;
- C) Appropriate outcome information contained in Appendix A and the Resource Checklist;
- D) Other documentation that substantiates a hospital's compliance with particular provisions or standards of perinatal care set forth in this Part; and
- E) Recommendation of Department program staff.

(Source: Amended at 41 Ill. Reg. 3477, effective March 9, 2017)

Section 640.50 Designation and Redesignation of Non-Birthing Center, Level I, Level II,

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Level II with Extended Neonatal Capabilities, Level III Perinatal Hospitals and Administrative Perinatal Centers

- a) The hospital shall declare by means of a letter of intent to the Department and the affiliated APC that it seeks designation as a hospital with no OB services, or as a Level I, Level II, Level II with Extended Neonatal Capabilities, or Level III in a Regional Perinatal Network.
- b) The Department will acknowledge the letter of intent.
- c) The APC shall arrange a site visit to the applicant hospital. The hospital shall prepare the designation/redesignation documents in accordance with Section 640.60. The site visit team for Level I, II, II with Extended Neonatal Capabilities, and III perinatal hospitals shall consist of ~~six~~five members: three from the APC of the hospital's Regional Perinatal Network, including the Directors of Neonatology and Maternal-Fetal Medicine or their designees and the Perinatal Network Administrator; a representative of nursing; one representative from the PAC; and one representative of the Department. When travel is not feasible, regardless of the reason, the PAC representative shall be permitted to participate in the site visit from a remote location via telephone, Voice over Internet Protocol (VoIP), or video conferencing. The site visit team shall review the capabilities of the applicant hospital based on the requirements outlined in the letter of agreement between the applicant hospital and the APC. The site visit team shall complete the Standardized Perinatal Site Visit Protocol (see Appendix A) and submit these materials to the medical directors of the hospital visited for their review and comment within 30 days after the date of the site visit. The APC shall collaborate with the Department to develop a summary site visit report within 60 days after the site visit. This report shall be sent to the hospital within 90 days after the site visit.
- d) The Department will coordinate the site visit for APCs. The team shall consist of five members: one Director of Neonatology, one Director of Maternal-Fetal Medicine and one Perinatal Network Administrator from a non-contiguous Center; one representative from the PAC; and one representative of the Department. When travel is not feasible, regardless of the reason, the PAC representative shall be permitted to participate in the site visit from a remote location via telephone, Voice over Internet Protocol (VoIP), or video conferencing. The Department shall collaborate with the site visit team to develop a summary site visit report within 60 days after the site visit. This report

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shall be forwarded to the hospital within 90 days after the site visit.

- e) The Department will review the submitted materials, any other documentation that clearly substantiates a hospital's compliance with particular provisions or standards for perinatal care, and the recommendation of the PAC.
- f) The Department will make the final decision and inform the hospital of the official determination regarding designation. The Department's decision will be based upon the recommendation of the PAC and the hospital's compliance with this Part, and may be appealed in accordance with Section 640.45. A 12-month to 18-month follow-up review will be scheduled for any increase in hospital designation to assess compliance with the requirements of this Part that are applicable to the new level of designation. The Department shall consider the following criteria to determine if a hospital is in compliance with this Part:
 - 1) Maternity and Neonatal Service Plan (Subpart O of the Hospital Licensing Requirements);
 - 2) Proposed letter of agreement between the applicant hospital and its APC in accordance with Section 640.70;
 - 3) Appropriate outcome information contained in Appendix A and the Resource Checklist (Appendices L, M, N and O);
 - 4) Other documentation that substantiates a hospital's compliance with particular provisions or standards of perinatal care set forth in this Part; and
 - 5) Recommendation of Department program staff.
- g) The Department will review all designations at least every three years to assure that the designated hospitals continue to comply with the requirements of the perinatal plan. Circumstances that may influence the Department to review a hospital's designation more frequently than every three years could include:
 - 1) A hospital's desire to expand or reduce services;
 - 2) Poor perinatal outcomes;

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- 3) Change in APC or Network affiliation;
 - 4) Change in resources that would have an impact on the hospital's ability to comply with the required resources for the level of designation; or
 - 5) An APC finds and the Department concurs or determines that a hospital is not appropriately participating in and complying with CQI programs.
- h) Existing designations shall be effective until redesignation is accomplished.

(Source: Amended at 41 Ill. Reg. 3477, effective March 9, 2017)

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- 1) Heading of the Part: Coin-Operated Amusement Device and Redemption Machine Tax
- 2) Code Citation: 86 Ill. Adm. Code 460
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
460.101	Amendment
460.105	Amendment
- 4) Statutory Authority: 35 ILCS 510/4; 20 ILCS 2505/2505-105
- 5) Effective Date of Rules: March 10, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 15669; November 28, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. Grammatical and technical changes were made. In addition, in Section 101(b), changed "2(b)" to "(3(1)"; in Section 105(b)(4), after "\$25" added "[720 ILCS 5/28-2(a)(4)]"; and in 105(b) changed "E)" to "5)" and changed text to read "The redemption value of each individual ticket, token, or other representations of value from a single play of the device does not exceed \$25. The redemption value of tickets, tokens, and other representations of value may be accumulated by players to redeem prizes of greater value. [720 ILCS 5/28-2(a)(4)(E)]."
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: Section 460.101 is amended to implement a statutory change to the definition of coin-operated amusement device contained in Section 1 of the Coin-Operated Amusement Device and Redemption Machine Tax Act. The statutory change expanded the definition of coin-operated amusement device to include any device operated or operable by insertion of coins, tokens, chips or similar objects. The Department is also updating the definition by rule to include a device that is operated or operable by the use of a debit or prepaid card or mobile device. Amendments are made to Section 460.101 to notify taxpayers that they may file claims pursuant to Section 2 of the Act for tax, penalty and interest paid in error. Section 460.105 also is amended to implement statutory changes to the definition of redemption machine contained in Section 28-2(a)(4) of the Illinois Criminal Code. The definition also is amended to reflect changes in technology, such as games that use computer-generated graphics and electrical displays to simulate the throwing, rolling, bowling, shooting, placing or propelling a ball or object. Other changes have been made to the definition to explain the limitation on awards that may be awarded by a redemption machine.
- 16) Information and questions regarding these adopted rules shall be directed to:

Richard S. Wolters
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 460

COIN-OPERATED AMUSEMENT DEVICE AND REDEMPTION MACHINE TAX

Section

460.101	Nature and Scope of the Tax
460.105	Illustrations of Taxable and Nontaxable Coin-Operated Amusement Devices and Redemption Machines
460.110	Privilege Tax Decals

AUTHORITY: Implementing the Coin-Operated Amusement Device and Redemption Machine Tax Act [35 ILCS 510] and authorized by Section 2505-105 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-105].

SOURCE: Coin-Operated Amusement Device Tax Act Regulations, adopted July 30, 1953; codified at 8 Ill. Reg. 8607; amended at 16 Ill. Reg. 4876, effective March 12, 1992; amended at 27 Ill. Reg. 542, effective December 27, 2002; emergency amendment at 27 Ill. Reg. 10539, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 2284, effective January 22, 2004; amended at 41 Ill. Reg. 3495, effective March 10, 2017.

Section 460.101 Nature and Scope of the Tax

- a) The Coin-Operated Amusement Device and Redemption Machine Tax Act (the Act) imposes an annual privilege tax on the privilege of operating, in this State:
 - 1) every coin-in-the-slot-operated amusement device in this State, including a device operated or operable by insertion of coins, tokens, chips or similar objects, or operated by the use of a debit or prepaid card or mobile device, that returns to the player no money or property or right to receive money or property; and
 - 2) every redemption machine, as defined in Section 460.105 ~~of this Part.~~
- b) ~~Through June 30, 2003, the amount of the tax is \$15 for each device or machine for which a license was issued for a period beginning on or after August 1 of any year and prior to February 1 of the succeeding year. A privilege tax of \$8 is~~

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~~imposed on the privilege of operating a device or machine for which a license was issued for a period beginning on or after February 1 of any year and ending July 31 of that year. Beginning July 1, 2003, privilege tax decals will be issued instead of licenses.~~ The amount of the tax is \$30 for each device or machine for which a privilege tax decal ~~is~~was issued for a period beginning on or after August 1 of any year through July 31 of the following year. All privilege tax decals issued by the Department shall expire on July 31 following issuance [35 ILCS 510/3(1)]. Privilege tax decals are issued in one-year increments only.

- c) ~~Through June 30, 2003, the tax payable with respect to any amusement device or redemption machine must be remitted to the Department of Revenue with the application for license for such device or machine. Beginning July 1, 2003, the~~ The tax payable with respect to any amusement device or redemption machine must be remitted to the Department of Revenue with a form containing information regarding ~~that~~such device or machine. The remittance should be made payable to the Department of Revenue.
- d) If an amount of tax, penalty or interest has been paid in error to the Department, a taxpayer may file a claim for credit or refund with the Department in accordance with the provisions of Section 2 of the Act [35 ILCS 510/2(b)].

(Source: Amended at 41 Ill. Reg. 3495, effective March 10, 2017)

Section 460.105 Illustrations of Taxable and Nontaxable Coin-Operated Amusement Devices and Redemption Machines

- a) Coin-operated Amusement Devices – Taxable Devices
- 1) To be taxable, the device must be coin-operated, or operated by the insertion of tokens, chips or similar objects, or operated by the use of a debit or prepaid card or mobile device, and it must be an amusement device. However, if an otherwise taxable amusement device is equipped to be operated by means of the insertion of coins, tokens, chips or similar objects, or operated by the use of a debit or prepaid card or mobile device, it is the Department's position that ~~the~~such device does not cease to be a taxable device because of the fact that the operator of the device~~thereof~~ has his or her customers pay for the use of ~~the~~such device at the bar or in some other way ~~that~~which avoids the use of ~~a the coin~~ receptacle that accepts coins, tokens, chips or similar objects, or a debit or prepaid card or

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mobile device.

- 2) The device cannot return money or property or the right to receive money or property to the player. For example, a crane game that offers players the right to receive merchandise contained in the machine is not subject to the tax.
 - 3) An amusement device is a device thatwhich is played primarily for amusement or entertainment rather than for the purchase of some specific commodity or service. Every kind of coin-operated amusement device, thatwhich does not return money or property or the right to receive money or property to the player, is subject to the tax. Therefore, the tax applies not only to coin-operated pinball machines, gun-ray devices and shuffleboards (as it did prior to August 1, 1963), but also (commencing August 1, 1963) to coin-operated hockey games, baseball games, horse racing games, gun games of all kinds, pool games, mechanical pony rides and other similar devices, juke boxes, fortune-telling machines and anything else thatwhich comes within the foregoing definition of a coin-operated amusement device.
- b) Redemption Machines
- ~~1)~~ Tax shall be imposed as required in Section 460.101 ~~of this Part~~ on the privilege of operating a redemption machine. For purposes of this Part, *a redemption machine is a single-player or multi-player amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object that is either physical or computer generated on a display or with lights into, upon, or against a hole or other target that is either physical or computer generated on a display or with lights, or stopping, by physical, mechanical, or electronic means, a moving object that is either physical or computer generated on a display or with lights into, upon, or against a hole or other target that is either physical or computer generated on a display or with lights, provided that all the following conditions are met:*
- ~~1)A)~~ *The outcome of the game is predominantly determined by the skill of the player;*
 - ~~2)B)~~ *The award of the prize is based solely upon the player's achieving the object of the game or otherwise upon the player's score;*

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- 3) ~~E~~) Only merchandise prizes are awarded;
- 4) ~~D~~) The ~~average~~ wholesale value of prizes awarded in lieu of tickets or tokens for single play of the device does not exceed \$25 [720 ILCS 5/28-2(a)(4)] ~~the lesser of \$5 or 7 times the cost charged for a single play of the device; and~~
- 5) ~~E~~) The redemption value of each individual ticket, token, or other representations of value from a single play of the device does not exceed \$25. The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, does not exceed the amount charged for a single play of the device [720 ILCS 5/28-2(a)(4)(E)].

c) Nontaxable Devices and Redemption Machines

- 1) The tax does not apply to a coin-operated device maintained by a public utility for furnishing public utility service (such as telephone service). The tax does not apply to any coin-operated device ~~which is~~ designed and used strictly as a means of vending merchandise or service. For example, this tax does not apply (among other things) to cigarette, soft drink and other merchandise vending machines, nor to coin-operated scales ~~that~~~~which~~ merely provide information concerning a person's weight, nor to coin-operated machines ~~that~~~~which~~ merely provide the customer with a photographing service, nor to coin-operated machines ~~that~~~~which~~ merely provide a laundry or dry cleaning service.
- 2) The tax does not apply to gambling devices, as defined in Section 28-2 of the Criminal Code [720 ILCS 5/28-2].
- 3) The tax does not apply to a coin-operated amusement device or redemption machine that would otherwise be taxable ~~when~~~~where~~ the person operating ~~the~~~~such~~ device or machine is a private club or organization, and ~~when~~ ~~the~~ ~~where~~ ~~such~~ club or organization restricts the displaying of the amusement device or machine to its membership and ~~the~~~~such~~ device or machine is not displayed in such a manner as to be accessible to the public. The exemption described in the preceding sentence arises from the fact that the Act is worded so that it applies only to the displaying of coin-operated amusement devices or redemption

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machines ~~that where such devices or machines~~ are "to be played or operated by the public". However, a private club or organization cannot be established for the purpose of displaying ~~such~~ amusement devices or redemption machines and thus evade the privilege tax decal requirements of the Act.

(Source: Amended at 41 Ill. Reg. 3495, effective March 10, 2017)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of March 7, 2017 through March 13, 2017. The rulemakings are scheduled for review at the Committee's April 4, 2017 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
4/20/17	<u>Illinois Labor Relations Board</u> , General Procedures (80 Ill. Adm. Code 1200)	10/28/16 40 Ill. Reg. 14568	4/4/17
4/22/17	<u>Department of Insurance</u> , Misrepresentation and False Warranties (50 Ill. Adm. Code 941)	8/26/16 40 Ill. Reg. 11232	4/4/17
4/22/17	<u>Department of Insurance</u> , Personal Information Privacy Protection (50 Ill. Adm. Code 4002)	12/30/16 40 Ill. Reg. 16509	4/4/17