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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 2019

| Issue# | Rules Due Date | Date of Issue |
|---------------|-----------------------|----------------------|
| 1 | December 26, 2018 | January 4, 2019 |
| 2 | December 31, 2018 | January 11, 2019 |
| 3 | January 7, 2019 | January 18, 2019 |
| 4 | January 14, 2019 | January 25, 2019 |
| 5 | January 22, 2019 | February 1, 2019 |
| 6 | January 28, 2019 | February 8, 2019 |
| 7 | February 4, 2019 | February 15, 2019 |
| 8 | February 11, 2019 | February 22, 2019 |
| 9 | February 19, 2019 | March 1, 2019 |
| 10 | February 25, 2019 | March 8, 2019 |
| 11 | March 4, 2019 | March 15, 2019 |
| 12 | March 11, 2019 | March 22, 2019 |
| 13 | March 18, 2019 | March 29, 2019 |
| 14 | March 25, 2019 | April 5, 2019 |
| 15 | April 1, 2019 | April 12, 2019 |
| 16 | April 8, 2019 | April 19, 2019 |
| 17 | April 15, 2019 | April 26, 2019 |
| 18 | April 22, 2019 | May 3, 2019 |
| 19 | April 29, 2019 | May 10, 2019 |
| 20 | May 6, 2019 | May 17, 2019 |
| 21 | May 13, 2019 | May 24, 2019 |
| 22 | May 20, 2019 | May 31, 2019 |

| | | |
|----|--------------------|--------------------|
| 23 | May 28, 2019 | June 7, 2019 |
| 24 | June 3, 2019 | June 14, 2019 |
| 25 | June 10, 2019 | June 21, 2019 |
| 26 | June 17, 2019 | June 28, 2019 |
| 27 | June 24, 2019 | July 5, 2019 |
| 28 | July 1, 2019 | July 12, 2019 |
| 29 | July 8, 2019 | July 19, 2019 |
| 30 | July 15, 2019 | July 26, 2019 |
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| 32 | July 29, 2019 | August 9, 2019 |
| 33 | August 5, 2019 | August 16, 2019 |
| 34 | August 12, 2019 | August 23, 2019 |
| 35 | August 19, 2019 | August 30, 2019 |
| 36 | August 26, 2019 | September 6, 2019 |
| 37 | September 3, 2019 | September 13, 2019 |
| 38 | September 9, 2019 | September 20, 2019 |
| 39 | September 16, 2019 | September 27, 2019 |
| 40 | September 23, 2019 | October 4, 2019 |
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| 42 | October 7, 2019 | October 18, 2019 |
| 43 | October 15, 2019 | October 25, 2019 |
| 44 | October 21, 2019 | November 1, 2019 |
| 45 | October 28, 2019 | November 8, 2019 |
| 46 | November 4, 2019 | November 15, 2019 |
| 47 | November 12, 2019 | November 22, 2019 |
| 48 | November 18, 2019 | December 2, 2019 |
| 49 | November 25, 2019 | December 6, 2019 |
| 50 | December 2, 2019 | December 13, 2019 |
| 51 | December 9, 2019 | December 20, 2019 |
| 52 | December 16, 2019 | December 27, 2019 |

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Centers for Independent Living
- 2) Code Citation: 89 Ill. Adm. Code 886
- 3)

| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
|-------------------------|--------------------------|
| 886.10 | Amendment |
| 886.20 | Amendment |
| 886.30 | Amendment |
| 886.40 | Repealed |
| 886.50 | Amendment |
| 886.60 | Repealed |
| 886.70 | Amendment |
| 886.80 | Repealed |
| 886.90 | Repealed |
| 886.100 | Repealed |
| 886.110 | Repealed |
- 4) Statutory Authority: Implementing and authorized by Section 12a of the Disabled Persons Rehabilitation Act [20 ILCS 2405/12a], and 29 U.S.C. 711 and 796.
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being proposed to make 89 Ill. Adm. Code 886 consistent with recent updates to relevant State and federal guidelines. The amendments to this rule impact the provision, funding and monitoring of services for Grantee Centers for Independent Living and the Department. This rulemaking will update the definitions for terms used throughout the rule. 886.30 and 886.40 will be combined to more succinctly outline the requirements of Grantees who are federally and State funded to provide independent living services. 886.50 and 886.60 will be combined and updated so that the process for non-State and non-federal agencies to make application to be approved as, and to receive State and federal funding to provide services as a Center for Independent Living, is consistent with federal and State guidelines. 886.70 – 886.110 will be consolidated into one Section to streamline the process for compliance reviews.
- 6) Any published studies or reports, along with the sources of underlying data that were used when composing this rulemaking? None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

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- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses who serve as Centers for Independent Living may be affected.
- B) Reporting, bookkeeping or other procedures required for compliance: Grantees, and the Department as Grantor, are required to follow reporting and monitoring procedures outlined in 29 USC 701-796i and 30 ILCS 708.
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rule;

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B) Categories that the Agency reasonably believes the rulemaking will impact, including:

ii regulatory requirements;

15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
 SUBCHAPTER h: MISCELLANEOUS PROGRAMS

PART 886
 CENTERS FOR INDEPENDENT LIVING

Section

| | |
|---------|--|
| 886.10 | General Provisions |
| 886.20 | Definitions |
| 886.30 | Program Description Purpose |
| 886.40 | Funding from DHS for Independent Living Services (Repealed) |
| 886.50 | Applications for First-time Funding from the Designated State Entity DHS for Centers for Independent Living |
| 886.60 | Review and Approval of Initial Applications for Funding from DHS (Repealed) |
| 886.70 | Compliance Reviews and Recertification of CILs for Continued Funding |
| 886.80 | Impact of the Compliance Review (Repealed) |
| 886.90 | Reporting the Outcome of a Compliance Review (Repealed) |
| 886.100 | Funding Based on Compliance Review Outcomes (Repealed) |
| 886.110 | Grievance of Compliance Review Ratings (Repealed) |

AUTHORITY: Implementing and authorized by Section 12a of the Disabled Persons Rehabilitation Act [20 ILCS 2405/12a], and 29 U.S.C. 711 and 796.

SOURCE: Adopted at 20 Ill. Reg. 12262, effective August 27, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 3869, effective February 6, 1998; amended at 43 Ill. Reg. _____, effective _____.

Section 886.10 General Provisions

The provisions of this Part apply to [the DHS Division of Rehabilitation Services \(DHS-DRS\)](#) application, evaluation, and funding processes for [Illinois](#) Centers for Independent Living under:

- a) Title VII, [Chapter 1, Parts A through C](#)~~Part B~~ of the Rehabilitation Act of 1973, as amended (29 ~~USC~~~~U.S.C.~~ 701 ~~through~~– 796i), [34 CFR 104.364 through 104.366 and 45 CFR 1329](#);–
- b) [The Americans With Disabilities Act of 1990 \(42 USC 12101\)](#);

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- c) [Rehabilitation of Persons with Disabilities Act \[20 ILCS 2405\];](#)
- d) [Illinois Accessibility Code \[71 Ill. Adm. Code 400\];](#)
- e) [Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards \(Uniform Guidance\) \(2 CFR 200\);](#)
- f) [Illinois Human Rights Act \[775 ILCS 5\];](#) and
- g) [Grant Accountability and Transparency Act \[30 ILCS 708\].](#)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 886.20 Definitions

For the purposes of this Part, the following terms shall have the following meanings:

[Act – the Rehabilitation Act of 1973 \(29 USC 701 through 796i\) is federal legislation that establishes rules and funding requirements for the development and operation of Independent Living Services programs by Centers for Independent Living.](#)

[Administration on Community Living or ACL – a unit of the U.S. Department of Health and Human Services.](#)

- a) ~~Advocacy – pleading an individual's cause or speaking or writing in support of an individual which may include representation before public and/or private entities on the behalf of one's self, another individual, or a group of individuals.~~
- b) ~~Center for Independent Living or (CIL or Center) – a consumer-controlled, community based, cross-disability, nonresidential, private not-for-profit agency for individuals with significant disabilities (regardless of age or income) that:~~
 - 1) is designed and operated within a local community by [a majority of individuals with disabilities](#); and
 - 2) provides an array of [Independent Living Services](#)~~independent living services~~, as defined in section 705(18) of the Act, including, at a

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minimum, Independent Living Core Services; and-

complies with the standards set out in section 725(b) of the Act, with the assurances in section 725(c) of the Act, and with 45 CFR 1329.5.

Compliance Review – an on-site review of a CIL that is conducted by the DSE to assess compliance with the standards and assurances set forth in federal and State law and with contract terms and conditions.

Consumer – a person with a disability who has requested (or his or her family member has requested on that person's behalf), been referred for, is receiving, or has received any services provided by a CIL.

- ⇒ Consumer Control – the vesting of power and authority by a CIL or other eligible agency in a group of individuals with disabilities pursuant to the Rehabilitation Act of 1973, as amended (20 U.S.C. 701-796i) and the Disabled Persons Rehabilitation Act [20 ILCS 2405/12a], the CIL must be governed by a board of directors that is composed of a majority of individuals who are individuals with disabilities and employ, in management and decision making positions, a majority of individuals who are individuals with disabilities. With respect to an individual, "consumer control" means that the individual with a disability asserts control over his or her personal life choices. Pursuant to 34 CFR 364.4, this means the CIL vests power and authority in individuals with disabilities, including individuals who are or have been recipients of independent living services.
- ⇒ Cross-disability – a situation in which with respect to CILs and independent living services, that services are available to a range of individuals with significant disabilities and their eligibility for those such services does not require a specific disability in order to access Independent Living Services independent living services.

Designated State Entity or DSE – the agency designated in the State Plan for Independent Living (SPIL) that acts on behalf of the State to provide the functions described in the Act.

Finding – the outcome of a compliance review reflecting that the CIL being reviewed did not demonstrate minimum compliance with applicable standards and assurances set forth in federal and State law and with contract terms and conditions.

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- e) Independent Living Core Services – the minimum services an organization must provide to be considered a CIL. These services are:
- 1) information and referral services;
 - 2) independent living skills training;
 - 3) peer counseling, including cross-disability peer counseling; ~~and~~
 - 4) individual advocacy and system advocacy; and-
transitional services that:

facilitate the transition of individuals with significant disabilities from nursing homes and other institutions to home and community-based residences, with the requisite supports and services;

provide assistance to individuals with significant disabilities who are at risk of entering institutions so that the individuals may remain in the community; and

facilitate the transition of youth who are individuals with significant disabilities.
- f) ~~Independent Living Plan (ILP) – a written plan which outlines the Independent Living Services which are to be provided to an individual determined eligible to receive Independent Living Services. The ILP must be jointly developed by the individual who will receive Independent Living Services and the CIL. An ILP must be developed for each individual who shall receive Independent Living Services unless the individual specifically signs a statement waiving his/her rights to have an ILP.~~
- g) Independent Living Services – services in addition to the Independent Living Core Services provided by a CIL ~~which DHS will take into consideration when approving funding or continued funding for a CIL.~~ These services are:
- 1) ~~counseling services, including psychological, psychotherapeutic, and~~

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~~related services;~~

- ~~2) services relating to the securing of housing or shelter including accommodations and modifications to any space used to serve or which is to be occupied by individuals with disabilities;~~
- ~~3) rehabilitation technology services;~~
- ~~4) mobility training;~~
- ~~5) services and training for individuals with cognitive and sensory disabilities, including life skills training and reader and interpreter services;~~
- ~~6) personal assistance (PA) services including attendant care and training from those individuals who will be providing PA services;~~
- ~~7) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, accessible transportation, and other support services;~~
- ~~8) consumer information programs on rehabilitation and independent living services available, especially to minorities and other individuals with significant disabilities who have been traditionally unserved or underserved;~~
- ~~9) education and training necessary for living and participating in a community;~~
- ~~10) supported living;~~
- ~~11) transportation, including referral and assistance for transportation;~~
- ~~12) physical rehabilitation;~~
- ~~13) therapeutic treatment;~~
- ~~14) provision of needed prostheses and other appliances and devices;~~

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- ~~15) individual and group social and recreational services;~~
- ~~16) training to develop skills specifically designed for youths with significant disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career opportunities;~~
- ~~17) services for children;~~
- ~~18) services under other federal, State, and local programs designed to provide resources, training, counseling, or other assistance of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with significant disabilities;~~
- ~~19) appropriate preventive services to decrease the need of individuals with significant disabilities for similar services in the future;~~
- ~~20) community awareness programs to enhance the understanding and integration into society of individuals with significant disabilities; and~~
- ~~21) any other services that may be necessary to improve the ability of an individual with a significant disability to function, continue to function, or move toward functioning independently in the family or community or to continue employment and that are not inconsistent with this Part and the provisions of Title VII, Part B of the Rehabilitation Act of 1973, as amended (29 U.S.C. 701-796i).~~

Individual Advocacy – involves pleading an individual's cause or speaking or writing in support of an individual. Individual advocacy may include representation before public and/or private entities or organizations, government agencies (whether State, local or federal) or in a court of law (whether State or federal) on the behalf of oneself, another individual, or a group of individuals.

- h) Individual with a Disability~~disability~~ – an individual who:
- ~~1) has a physical, mental, cognitive, or sensory impairment that substantially limits one or more of the individual's major life activities;~~
 - ~~2) has a record of having such an impairment; or~~

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- 3) is regarded as having such an impairment.
- 4) Individual with a Significant Disability~~significant disability~~ – an individual with a severe physical, mental, cognitive, or sensory impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of Independent Living Services~~independent living services~~ will improve the ability to function, continue to function, or move toward functioning independently in the family or community or to continue employment.
- Observation – a practice within a CIL observed during an on-site compliance review that does not rise to the level of a finding but would improve the provision of the independent living program if changes were made to that practice.
- 5) Part B Funding – the funding provided to states through the U.S. United States Department of Health and Human Education – Rehabilitation Services – Administration for Community Living (RSA), under the provisions of Title VII, – Part B of the Rehabilitation Act of 1973, as amended (29 U.S.C. 701-796i) to support and enhance Independent Living Services~~independent living services~~ within a state.
- 6) Part C Funding – the funding provided directly to qualifying CILs through the U.S. United States Department of Health and Human Education – Rehabilitation Services – Administration for Community Living (RSA), under the provisions of Title VII, – Part C of the Rehabilitation Act of 1973, as amended (29 U.S.C. 701-796i) to establish new CILs and new branch offices, and to support, expand and enhance Independent Living Services~~independent living services~~ to existing CILs within a state.
- 7) State Appropriated Funds – those funds appropriated by the Illinois General Assembly for DHS to support and enhance Independent Living Services in the State.
- 8) State Plan for Independent Living or (State Plan or SPIL) – the plan required under section 704 of Title VII of the Act that is jointly developed by ~~DHS and~~ the Statewide Independent Living Council (SILC) ~~(89 Ill. Adm. Code 515)~~ and the directors of the CILs, after receiving public input from individuals with disabilities and other stakeholders throughout the State, and approved by Director and the Chairperson of SILC, which is submitted for review and approval by

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~~RSA~~. The State Plan outlines the services, goals, and objectives of the statewide independent living program~~DHS Independent Living Program~~, as well as outlining the plan for Independent Living Services throughout the State, and is the basis for receipt of Part B and Part C Funds received from ACLRSA.

- n) Statewide Independent Living Council or (SILC) – the mandated council established pursuant to the ~~Rehabilitation Act of 1973, as amended (29 U.S.C. 701-796i)~~ and Section 12a of the Disabled Persons Rehabilitation Act [20 ILCS 2405/12a] and governed by DHS rules~~Administrative Rules~~ at 89 Ill. Adm. Code 515.

System Advocacy – reducing barriers to community participation through:

public education and media engagement;

utilizing the legal/judicial process;

engaging in legislative advocacy; and/or

influencing administrative or regulatory entities.

- o) Unserved or Underserved – groups or populations of individuals with severe disabilities in the State, including but not limited to those groups that~~which~~:
- 1) have cognitive or sensory impairments;
 - 2) are members of disadvantaged racial or ethnic minority groups that are served at ratios less than their proportion of a CIL's service area;
are individuals with limited English proficiency;
 - 3) live in rural or urban areas; or
 - 4) are identified by DHS or a local CIL as being from an unserved or underserved rural or urban geographic area.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 886.30 Program DescriptionPurpose

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- a) In order to further promote independence and full community participation of individuals with disabilities and individuals with significant disabilities in Illinois, ~~DHS-DRSDHS-ORS~~ shall distribute State ~~appropriated funds~~Appropriated Funds and Part B Funds received to eligible CILs in accordance with the ~~Rehabilitation Act of 1973, as amended (29 U.S.C. 701-796i)~~ and federal regulations at 35 CFR 364. Further, State ~~appropriated funds~~Appropriated Funds may be used in addition to Part C Funds, which are not under ~~DHS-DRSDHS-ORS~~ control, to establish new CILs.
- b) CILs are consumer-controlled, community-based, cross-disability, nonresidential, private not-for-profit agencies for individuals with significant disabilities (regardless of age or income) that:
- 1) receive State and/or federal funds to provide an array of Independent Living Services, as defined in the Act, including at a minimum, Independent Living Core Services;
 - 2) are designed and operated within a local community by a majority of individuals with disabilities; and
 - 3) comply with the standards set out in section 725 of the Act.
- c) The DSE is the agency that, on behalf of the State, receives, accounts for and disburses grants, funding received under Part B of the Act, and State appropriated funding to a CIL. The DSE will ensure both federal and State funds are expended properly by:
- 1) requiring monthly, quarterly and annual reporting from the CILs;
 - 2) conducting on-site compliance reviews of the CILs; and
 - 3) providing technical assistance for, and ongoing monitoring of, contracts entered into by CILs to obtain State and federal grant funding.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 886.40 Funding from DHS for Independent Living Services (Repealed)

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- a) ~~Funding from DHS, through available Part B Funds and State Appropriated Funds, shall be provided to CILs, in accordance with Title VII—Part B of the Rehabilitation Act of 1973, as amended (29 U.S.C. 701-796i), federal regulations at 34 CFR 364, and the provisions of this Part, which apply for, and are determined eligible to receive or continue to receive, funding pursuant to Sections 886.50, 886.60, and 886.70 of this Part.~~
- b) ~~Such funding shall be provided to eligible CILs for the purposes of:~~
- ~~1) activities described in the State Plan;~~
 - ~~2) provision of Independent Living Services (IL Services);~~
 - ~~3) demonstration of ways to expand and improve IL Services in Illinois;~~
 - ~~4) supporting the operations of CILs throughout the State;~~
 - ~~5) increasing the scope of services provided by CILs;~~
 - ~~6) conducting studies and making reports on the finding of such studies which will enhance IL Services in the State;~~
 - ~~7) providing training to individuals with and without disabilities regarding the philosophy of Independent Living;~~
 - ~~8) developing a mechanism by which a CIL will inform its customers of their rights to an Independent Living Plan and review and revision of that plan, their rights of appeal, including the availability of services through the Client Assistance Program; and~~
 - ~~9) providing outreach to populations that are unserved or underserved.~~

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

Section 886.50 Applications for First-time Funding from the Designated State Entity~~DHS~~ for Centers for Independent Living

- a) When making application for funding from the DSE~~DHS~~, the CIL must provide documentation that~~which~~ demonstrates:

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- 1a) a broad-based support from individuals with disabilities and consumer groups within the communitiescommunity(ies) the CIL will serve;
- 2b) that the CIL is operated with consumer control, as defined in Section 886.20~~(e) of this Part~~;
- 3e) that the CIL has a broad understanding of existing community resources and the needs for additional resources in the communitiescommunity(ies) it serves;
- 4d) adequate knowledge, skill, and resources to provide at least the Independent Living Core Services, as defineddescribed in Section 886.20~~(f) of this Part~~;
- 5e) involvement of the CIL, in the community(ies) with community entities such groups as city council, county board, and other political sub-units, for the purposes of educating these groups on disability issues and advocating for system change;
- 6f) compliance with all provisions for physical and programmatic accessibility set forth inof the State and federal lawCIL as required by Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Non-discrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance (34 CFR 104), the Illinois Human Rights Act [775 ILCS 5], the Illinois Accessibility Code (71 Ill. Adm. Code 400), the Americans with Disabilities Act (42 U.S.C. 12101), and any other appropriate State or federal law or regulation;
- 7g) the ability to provide Independent Living Services as defineddescribed in Section 886.20~~(g) of this Part~~; and
- 8) compliance with the provisions for application for funding through the federal Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR 200) and the Illinois Grant Accountability and Transparency Act [30 ILCS 708]; and
- 9h) any other provision regarding the operation of a CIL as required by DHS,

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or State or federal law or regulation.

- b) On an annual basis, the DSE shall review all new applications for first-time funding received from CILs. Applications shall be ranked based on the determination of the CIL's ability to meet the criteria listed in this Section. The determination of the DSE shall be based upon such considerations as:
- 1) ranking of the application;
 - 2) needs of unserved or underserved populations; and
 - 3) thoroughness of the proposed program.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 886.60 Review and Approval of Initial Applications for Funding from DHS
(Repealed)

~~On an annual basis, DHS shall review all new applications for first time funding received from CILs. Applications shall be ranked based on the determination of the CIL's ability to meet the criteria listed in Section 886.50. The results of the review shall be presented to DHS' Director who shall have the final determination for distribution of first-time funding. The determination of DHS' Director shall be based upon such considerations as:~~

- ~~a) ranking of the application;~~
- ~~b) unserved or underserved population;~~
- ~~e) thoroughness of the proposed program.~~

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

Section 886.70 Compliance Reviews and Recertification for CILs for Continued Funding

- a) The DSE will~~Annually, or whenever it is determined necessary by DHS, DHS shall~~ conduct an on-site compliance review of all ~~DHS-funded~~ CILs to:
- 1) verify compliance with the standards and assurances in section 725 of the Act, as well as other applicable State and federal statutes;

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- 2) verify compliance with State grant contract terms and conditions; and
 - 3) ascertain whether ~~the DSE/DHS~~ should renew, modify, or terminate funding agreements with the CIL.
- b) The frequency of which on-site reviews will be conducted will be based on State and federal regulations related to grant administration.
- ~~cb)~~ The on-site compliance review will review shall be completed using a team of peer reviewers which is selected and established by ~~the DSE/DHS and the Illinois Network of Centers for Independent Living (INCIL), if funding permits. The peer review team shall consist of at least one current CIL director with at least 3 years management experience selected from a list of current CIL directors, at least one member of DHS' Independent Living staff, and at least one person with a disability. DHS reserves the right to select another CIL director, if the director selected is responsible for a CIL that has been found to be out of compliance as a result of a compliance review completed within the last twelve months. When sufficient funds are not available, reviews shall be completed by only DHS Independent Living staff.~~
- e) DHS shall review CILs using the criteria established by RSA for review of compliance for CILs receiving funding under Part C, as defined by Section 725(b) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 725(b)).
- d) Upon completion of the compliance review, a written report of findings, observations, recommendations and compliance rating will be prepared by the DSE and then sent to the executive director (or his or her designee) and the chairperson of the board of directors of the CIL under review.
- e) Compliance ratings, and their subsequent impact, include:
- 1) Full Compliance – The CIL will receive funding at the same or an increased level as the current year within the limitation of available funds and the needs of DHS. The CIL will be exempt from undergoing a full compliance review for a period not to exceed 3 years, unless the need for such a review is otherwise indicated to ensure contract compliance.

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- 2) Noncompliance – If one or more findings, as defined in Section 886.20, are identified in the on-site compliance review report, the CIL reviewed will be placed in a probationary status until findings are remedied through implementation of a corrective action plan. The length of the probationary period is at the discretion of the DSE, but will not last more than 12 months.
 - 3) Unacceptable Noncompliance – A finding of "unacceptable noncompliance" may be made if a CIL in "noncompliance" status fails to correct compliance review findings within the probationary period. This finding may also be made if the findings of the compliance review are determined to be of such significance that a finding of "noncompliance" would be inappropriate, and that immediate action is necessary on the part of the DSE. In instances of "unacceptable noncompliance", the DSE will make recommendation to the DHS-DRS Director that funding to the CIL cease. There will be no probationary period or subsequent review of the CIL. The decision to defund a CIL is to be made by the DHS-DRS Director. All funding to that CIL will terminate 90 days after the date of notification (see 20 ILCS 2405/12(f)).
- f) Grievance
- 1) A CIL that does not agree with the compliance review rating it receives may grieve the rating through a two-step grievance, as follows:
 - A) Level I (DSE Review) – The DSE will meet with the CIL to discuss the grievance and review evidence presented by the CIL in support of its case. Within 10 calendar days after the date of the meeting, the DSE will issue a written decision in response to the grievance.
 - B) Level II (DHS-DRS Director's Review) – Any CIL not satisfied with the result of the DSE review may request a review by the DHS-DRS Director, or his or her designee. The CIL will submit evidence in support of its case to the Director/designee. The Director/designee will then review the information provided by the CIL and the DHS file regarding the compliance rating. The Director/designee will then issue a written decision on the matter.

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The Director's review is the final step in the grievance process and will constitute DHS' final action on the matter.

- 2) If the initial determination was to discontinue funding to the CIL, funding will not continue during the grievance process past the date of the current contract's funding termination date.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 886.80 Impact of the Compliance Review (Repealed)

~~Based on the reviewers' observations regarding the CIL's compliance with DHS' requirements, each CIL undergoing a review will be given a written summary which will include both positive and negative aspects of the operations of the CIL.~~

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

Section 886.90 Reporting the Outcome of a Compliance Review (Repealed)

- a) ~~Upon completion of the compliance review, a written report of findings will be prepared by the Manager of the Division and/or lead reviewer, and provided to the Manager—Division of Independent Living.~~
- b) ~~The Manager—Division of Independent Living shall review the report to ensure all information is correct and adequate and shall prepare a written recommendation regarding future funding from DHS to the CIL and submit the recommendation to the DHS—ORS' Associate Director for review.~~
- c) ~~After the evaluation of the compliance review, the Manager—Division of Independent Living shall determine if an additional review is necessary. If the Manager determines that additional review is necessary, the Manager shall notify the CIL in writing that deficiencies were found. The Manager shall initiate the additional review process along with establishing a review team. This additional review shall be undertaken when it is determined that corrective action is needed by the CIL due to non-compliance.~~
- d) ~~DHS—ORS' Associate Director shall then review the recommendation and supporting documentation provided by the Manager—Division of Independent Living and make a final determination as to future funding to the CIL.~~

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(Source: Repealed at 43 Ill. Reg. _____, effective _____)

Section 886.100 Funding Based on Compliance Review Outcomes (Repealed)

~~After review of the recommendation and supporting material, DHS-ORS' Associate Director shall assign the CIL a final compliance rating, as follows, which will have the impact described below.~~

- ~~a) Full Compliance—the CIL shall receive funding at the same or an increased level as the current year within the limitation of available funds and the needs of DHS and shall be exempt from undergoing a Full Compliance Review for a period not to exceed 3 years.~~
- ~~b) Noncompliance—the CIL will be placed on 12-month probationary status to remedy deficiencies identified in the Compliance Review. Funding will remain at the same level as the current year for the 12-month probationary period within the limitation of available funds and the needs of DHS. During the probationary period, DHS shall monitor the progress of the CIL to ensure deficiencies are being corrected. Prior to the end of the 12-month probationary period, DHS shall perform a Compliance Review of the CIL reviewing only those items on which the CIL was found deficient. In the second Compliance Review, the CIL must obtain a Full Compliance Rating or funding to the CIL shall be terminated within 30 days. If the CIL achieves a Full Compliance Rating as a result of the second review, the provisions of subsection (a) above shall apply.~~
- ~~c) Unacceptable Noncompliance—funding to the CIL will be ceased in 30 days. There will be no probationary period or subsequent review of the CIL.~~

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

Section 886.110 Grievance of Compliance Review Ratings (Repealed)

~~A CIL which does not agree with the Compliance Review Rating which it receives as a result of a Primary or Secondary Compliance Review may grieve the rating through a two-step grievance, as follows:~~

- ~~a) Level I—Manager's Review~~

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- 1) ~~Within 30 calendar days after the date of the final Compliance Rating given to the CIL, the CIL may request a review by the Manager Division of Independent Living. The request must be in writing and state the specific items with which the CIL disagrees.~~
 - 2) ~~Within 10 calendar days after the date of the request, the Manager Division of Independent Living will contact the CIL in writing and will inform the CIL of the time, date, and location of a meeting to discuss the grievance. The meeting must be within 30 days after the date of the request for review filed by the CIL. The purpose of the meeting will be for both sides to present evidence to support its case, the review team to present information to justify the ratings, and for the CIL to present information to refute the ratings.~~
 - 3) ~~Within 10 calendar days after the date of the meeting, the Manager Division of Independent Living will issue his/her written decision on the grievance.~~
 - 4) ~~If the initial determination was to discontinue funding to the CIL, funding will not continue during the grievance process past the date of the current contract's funding termination date.~~
- b) Associate Director's Review
- 1) ~~Any CIL not satisfied with the result of the Manager's Review may request an Associate Director's Review. In order to request an Associate Director's Review the CIL must, within 10 calendar days after the date of the Manager's Review decision, request such a review. The request must be in writing to DHS' Director and state the specific items with which the CIL disagrees.~~
 - 2) ~~Within 10 calendar days after the date of the request, the Director, will contact the CIL in writing and will inform the CIL of the date by which evidence must be submitted for review. This date will be within 15 calendar days after the date of the request for a Director's Review.~~
 - 3) ~~The Director, will then review the information provided by the CIL and the DHS file regarding the Compliance Rating and shall, within 30 calendar days after the date evidence is to be submitted for the Director's~~

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~~Review, issue a written decision on the matter. The Director's, Review is the final step in the grievance process and shall constitute DHS' final action on the matter.~~

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3) Section Number: 603.60 Proposed Action:
Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking updates the Association of Racing Commissioners International (ARCI) Uniform Classification Guidelines for Foreign Substances, referenced in Section 603.60(a)(3), to version 14.0, dated January 2019.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Association of Racing Commissioners International (ARCI) Uniform Classification Guidelines of Foreign Substances version 14.0, January 2019.
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 5-700
Chicago IL 60601

312/814-5017

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Mickey.ezzo@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2018

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 603
MEDICATION

Section

| | |
|---------|--|
| 603.10 | Pre-Race Saliva Tests |
| 603.20 | Racing Soundness Exam |
| 603.30 | Foreign Substances and Pharmaceutical Aids Banned |
| 603.40 | Twenty-four Hour Ban |
| 603.50 | Trainer Responsibility |
| 603.55 | Prima Facie Evidence |
| 603.60 | Permitted Use of Foreign Substances and Threshold Levels |
| 603.70 | Furosemide |
| 603.75 | Environmental Contaminants |
| 603.80 | Needles, Syringes and Injectables |
| 603.90 | Drugs, Chemicals and Prescription Items |
| 603.100 | Detention Barn |
| 603.110 | Test Samples |
| 603.120 | Referee Samples |
| 603.130 | Laboratory Findings and Reports |
| 603.140 | Distribution of Purses |
| 603.150 | Post Mortems |
| 603.160 | Penalties |
| 603.170 | Veterinarian's Records |
| 603.180 | Carbon Dioxide Tests |
| 603.190 | Erythropoietin and Darbepoietin Antibody Testing Program |
| 603.200 | Out of Competition Testing |
| 603.210 | Androgenic-Anabolic Steroids (AAS) |

AUTHORITY: Implementing, and authorized by Section 9(b) of, the Illinois Horse Racing Act of 1975 [230 ILCS 5].

SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at 25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August

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1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331, effective April 15, 2003; amended at 28 Ill. Reg. 1374, effective January 19, 2004; amended at 28 Ill. Reg. 4751, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 7565, effective May 11, 2004, for a maximum of 150 days; emergency expired October 7, 2004; amended at 28 Ill. Reg. 11250, effective August 1, 2004; amended at 28 Ill. Reg. 15790, effective December 1, 2004; emergency amendment at 29 Ill. Reg. 2779, effective February 22, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5726, effective April 8, 2005; amended at 29 Ill. Reg. 12265, effective July 24, 2005; amended at 29 Ill. Reg. 14038, effective September 1, 2005; emergency amendment at 30 Ill. Reg. 14371, effective August 21, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18729, effective November 20, 2006; amended at 31 Ill. Reg. 1478, effective January 1, 2007; emergency amendment at 31 Ill. Reg. 6680, effective April 23, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 12982, effective September 1, 2007; amended at 32 Ill. Reg. 7397, effective May 1, 2008; amended at 33 Ill. Reg. 12571, effective August 25, 2009; expedited correction at 34 Ill. Reg. 9551, effective August 25, 2009; emergency amendment at 35 Ill. Reg. 265, effective December 17, 2010, for a maximum of 150 days; emergency amendment at 35 Ill. Reg. 2810, effective February 1, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 7400, effective April 25, 2011; amended at 35 Ill. Reg. 8485, effective May 23, 2011; emergency amendment at 35 Ill. Reg. 15296, effective September 6, 2011, for a maximum of 150 days; emergency rule repealed by emergency amendment at 35 Ill. Reg. 18434, effective October 24, 2011, for the remainder of the 150 days; emergency amendment at 35 Ill. Reg. 18959, effective October 25, 2011, for a maximum of 150 days; amended at 36 Ill. Reg. 330, effective January 1, 2012; emergency amendment at 36 Ill. Reg. 3290, effective February 15, 2012, for a maximum of 150 days; emergency amendment at 36 Ill. Reg. 6057, effective April 6, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 8967, effective June 1, 2012; amended at 36 Ill. Reg. 12815, effective August 1, 2012; amended at 36 Ill. Reg. 17078, effective November 28, 2012; emergency amendment at 36 Ill. Reg. 17131, effective November 28, 2012, for a maximum of 150 days; amended at 37 Ill. Reg. 4993, effective April 1, 2013; emergency amendment at 38 Ill. Reg. 9121, effective April 10, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18555, effective August 25, 2014; amended at 39 Ill. Reg. 11492, effective August 1, 2015; amended at 40 Ill. Reg. 9208, effective July 1, 2016; amended at 41 Ill. Reg. 12866, effective October 1, 2017; amended at 42 Ill. Reg. 10424, effective June 1, 2018; amended at 43 Ill. Reg. _____, effective _____.

Section 603.60 Permitted Use of Foreign Substances and Threshold Levels

- a) Non-Steroidal Anti-Inflammatories (NSAID): Threshold Levels
 - 1) Only one non-steroidal anti-inflammatory drug (NSAID) may be present

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in a horse's body while it is participating in a race. The presence of more than one NSAID, greater than the threshold level, is forbidden and will result in the purse being redistributed.

- 2) Subject to the prohibition contained in Section 603.40 (24 hour ban), the only foreign substances that now meet the criteria established in Section 603.80 are phenylbutazone, flunixin, ketoprofen, pyrillamine, isoxsuprine and the therapeutic medications listed in subsection (f).
- 3) Laboratory reports of phenylbutazone in a concentration greater than or equal to 2 mcg/ml in serum or plasma, flunixin in a concentration greater than or equal to 20 ng/ml in serum or plasma, and ketoprofen in a concentration greater than or equal to 2 ng/ml in serum or plasma shall be treated as Class 4 drugs, category "C" penalty, as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; [January 2019](#)~~January 2018~~ version [14.013.4](#); this incorporation includes no later amendments or editions).
- 4) A finding by the Board's laboratory of any amount of oxyphenbutazone in the absence of phenylbutazone shall be treated as a Class 4 drug, as defined in the ARCI Guidelines for Foreign Substances (incorporated by reference in subsection (a)(3)).
- 5) The use of multiple permitted NSAIDs shall be discontinued at least 48 hours prior to post time for the race in which the horse is entered. The presence of more than one NSAID is prohibited with the exceptions of:
 - A) Phenylbutazone – in a concentration less than 0.3 mcg/ml in serum or plasma.
 - B) Flunixin – in a concentration less than 3 ng/ml in serum or plasma.
 - C) Ketoprofen – in a concentration less than 1 ng/ml in serum or plasma.
- 6) If the phenylbutazone, flunixin or ketoprofen overage is due to the negligence of the veterinarian attending the horse, the veterinarian shall be

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subject to the same penalties as are set forth in the ARCI Guidelines for Foreign Substances (incorporated by reference in subsection (a)(3)).

- 7) Penalties for violations of this Section shall be based on the following criteria:
 - A) previous warnings and rulings for violations of this Section;
 - B) the age and experience of the violator;
 - C) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;
 - D) what action, if any, was taken to avoid the violation;
 - E) the purse of the race.
- b) The following foreign substances may be administered externally to a horse entered to a race: Leg paints and liniment that do not contain any "caine" derivatives, pharmacodynamic and/or chemotherapeutic agents, and that can be applied topically without penetrating the skin.
- c) Subject to the prohibition contained in Section 603.40 (24-hour ban), the following foreign substances, commonly referred to as anti-bacterial, anti-fungal, or anti-protozoal drugs, may be present in the body of a horse participating in a race.
 - 1) Anti-Bacterials
 - Amikacin
 - Ampicillin
 - Ampicillin sodium
 - Azolsulfamide
 - Chloramphenicol
 - Doxycycline
 - Enrofloxacin (Baytril)
 - Erythromycin sulfate
 - Gentamicin sulfate
 - Kanamycin sulfate

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Methenamine
Metronidazole
Neomycin sulfate
Nitrofurantoin
Oxytetracycline
Penicillin G. Benzathine
Penicillin G. Potassium
Sulfadimethazine
Sulfadimethoxine
Sulfamethoxazole
Sulfametranidazole
Sulfapyridine
Sulfathiazole
Tetracycline
Trimethoprim

2) Anti-Fungals

Amphotericin B
Griseofulvin
Neomycin Undecylenate
Nystatin

3) Anti-Protozoals

Nitazoxanide (Navigator)
Ponazuril (Marquis)
Pyrimethamine (Daraprim)

- d) This listing of anti-bacterial, anti-fungal, and anti-protozoal drugs is all inclusive and shall not include any other anti-bacterial, anti-fungal or anti-protozoal drug, except as provided in subsection (f).
- e) A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when threshold levels and guidelines for its use have been approved by the Board and this Part has been duly amended. The Board shall give due consideration to threshold levels and guidelines, when making additions to the permitted list, that have been established by the ARCI Guidelines for Foreign Substances (incorporated by reference in subsection (a)(3)).

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- f) Subject to the prohibition contained in Section 603.40 (24 hour ban), the use of the following therapeutic medications shall be permitted. The official test samples may contain the following therapeutic medications in concentrations less than the following threshold levels:
- 1) Acepromazine – 10 ng/ml as 2-(1-hydroxyethyl) promazine sulfoxide (HEPS) in urine.
 - 2) Albuterol – 1 ng/ml in urine.
 - 3) Betamethasone – 10 pg/ml in serum or plasma.
 - 4) Butorphanol – 300 ng/ml of total butorphanol in urine.
 - 5) Cetirizine – 6 ng/ml in serum or plasma.
 - 6) Cimetidine – 400 ng/ml in serum or plasma.
 - 7) Clenbuterol – 140 pg/ml in urine in thoroughbred and quarter horse breeds; and Limit of Detection (which is not less than 10 pg/ml) in serum or plasma in the standardbred breed.
 - 8) Dantrolene – 100 pg/ml of 5-hydroxydantrolene in serum or plasma.
 - 9) Detomidine – Level of Detection for detomidine in serum or plasma.
 - 10) Dexamethasone – 5 pg/ml in serum or plasma.
 - 11) Diclofenac – 5 ng/ml in serum or plasma.
 - 12) Dimethyl sulfoxide (DMSO) – 10 mcg/ml in serum or plasma.
 - 13) Firocoxib – 20 ng/ml in serum or plasma.
 - 14) Furosemide – 100 ng/ml in serum or plasma.
 - 15) Glycopyrrlate – 3 pg/ml in serum or plasma.

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- 16) Guaifenesin – 12 ng/ml in serum or plasma.
 - 17) Isoflupredone – 100 pg/ml in serum or plasma.
 - 18) Lidocaine – 20 pg/ml of total 3-hydroxylidocaine in serum or plasma.
 - 19) Mepivacaine – 10 ng total hydroxymepivacaine/ml in urine.
 - 20) Methocarbamol – 1 ng/ml in serum or plasma.
 - 21) Methylprednisolone – 100 pg/ml in serum or plasma.
 - 22) Omeprazole sulfide – 10 ng/ml in serum or plasma.
 - 23) Prednisolone – 1 ng/ml in serum or plasma.
 - 24) Procaine penicillin – 25 ng/ml of procaine in serum or plasma. Procaine penicillin must be reported to the Board at time of administration and shall not be administered after the horse is entered to race.
 - 25) Ranitidine – 40 ng/ml in serum or plasma.
 - 26) Triamcinolone acetonide – 100 pg/ml in serum or plasma.
 - 27) Xylazine – 200 pg/ml in serum or plasma.
- g) Laboratory reports of the therapeutic medications listed in subsection (f) greater than or equal to their respective threshold level shall be treated as they are defined and classified in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (incorporated by reference in subsection (a)(3)).
- h) Official test samples may contain any of the following drug substances, or their metabolites, in a concentration less than the threshold level:
- 1) Isoxsuprine – shall be less than 1,000 ng/ml in urine.
 - 2) Pyrilamine – shall be less than 50 ng/ml of O-desmethyl pyrilamine in urine.

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- i) The provisions of this Section shall be applied retroactively when substantively applicable, including all actions pending before the Board without regard to when the cause of action accrued; provided, however, that this subsection shall not operate to affect rights of individuals that have fully vested.
- j) To help licensees determine the test levels of substances contained in this Section, the Board laboratory will test, at the sole expense of the licensee for the actual cost of processing the sample, all equine urine, serum or plasma samples submitted to it that are accompanied by a certification indicating time, method and route of administration.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Adopted Actions:
 140.439 New Section
 140.513 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rules: February 4, 2019
- 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 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*: 42 Ill. Reg. 9052; June 8, 2018 and 42 Ill. Reg. 17067; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: At the suggestion of JCAR, the reference to a successor form documenting the level of care screening determination results has been removed.
- 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? Yes

| <u>Section Numbers:</u> | <u>Proposed Actions:</u> | <u>Illinois Register Citations:</u> |
|-------------------------|--------------------------|-------------------------------------|
| 140.3 | Amendment | 42 Ill. Reg. 7285; April 20, 2018 |
| 140.6 | Amendment | 42 Ill. Reg. 7285; April 20, 2018 |
| 140.413 | Amendment | 42 Ill. Reg. 7285; April 20, 2018 |

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

| | | |
|-------------|-----------|--------------------------------------|
| 140.452 | Amendment | 42 Ill. Reg. 14043; July 20, 2018 |
| 140.453 | Amendment | 42 Ill. Reg. 14043; July 20, 2018 |
| 140.455 | Amendment | 42 Ill. Reg. 14043; July 20, 2018 |
| 140.460 | Amendment | 42 Ill. Reg. 14043; July 20, 2018 |
| 140.TABLE N | Amendment | 42 Ill. Reg. 14043; July 20, 2018 |
| 140.990 | Amendment | 42 Ill. Reg. 18242; October 12, 2018 |
| 140.991 | Amendment | 42 Ill. Reg. 18242; October 12, 2018 |
| 140.993 | Amendment | 42 Ill. Reg. 18242; October 12, 2018 |
| 140.994 | Amendment | 42 Ill. Reg. 18242; October 12, 2018 |
| 140.995 | Repealed | 42 Ill. Reg. 18242; October 12, 2018 |
| 140.996 | Repealed | 42 Ill. Reg. 18242; October 12, 2018 |
| 140.997 | Repealed | 42 Ill. Reg. 18242; October 12, 2018 |
| 140.462 | Amendment | 42 Ill. Reg. 19557; November 9, 2018 |
| 140.490 | Amendment | 42 Ill. Reg. 19957; November 9, 2018 |
| 140.491 | Amendment | 42 Ill Reg. 24574; December 28, 2018 |

15) Summary and Purpose of Rulemaking: These amendments set deadlines by which long term care providers must report changes in resident status to the Department (PA 100-449) and establish the Critical Access Care Pharmacy Payment (PA 100-587).

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

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

HFS.Rules@Illinois.gov

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion or Barring
- 140.20 Submittal of Claims
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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; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984;

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

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amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 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,

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1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30,

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1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332,

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effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002;

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amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 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.

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Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; preemptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; preemptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; preemptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; 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

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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. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August 20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. 4394, effective March 11, 2015; emergency amendment at 39 Ill. Reg. 6903, effective May 1, 2015 through June 30, 2015; emergency amendment at 39 Ill. Reg. 8137, effective May 20, 2015, for a maximum of 150 days; emergency amendment at 39 Ill. Reg. 10427, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 12825, effective September 4, 2015; amended at 39 Ill. Reg. 13380, effective September 25, 2015; amended at 39 Ill. Reg. 14138, effective October 14, 2015; emergency amendment at 40 Ill. Reg. 13677, effective September 16, 2016, for a maximum of 150 days; emergency expired February 12, 2017; amended at 41 Ill. Reg. 999, effective January 19, 2017; amended at 41 Ill. Reg. 3296, effective March 8, 2017; amended at 41 Ill. Reg. 7526, effective June 15, 2017; amended at 41 Ill. Reg. 10950, effective August 9, 2017; amended at 42 Ill. Reg. 4829, effective March 1, 2018; amended at 42 Ill. Reg. 12986, effective June 25, 2018; emergency amendment at 42 Ill. Reg. 13688, effective July 2, 2018, for a maximum of 150 days; emergency amendment to emergency rule at 42 Ill. Reg. 16265, effective August 13, 2018, for the remainder of the 150 days; amended at 42 Ill. Reg. 14383, effective July 23, 2018; amended at 42 Ill. Reg. 20059, effective October 26, 2018; amended at 42 Ill. Reg. 22352, effective November 28, 2018; amended at 43 Ill. Reg. 1014, effective December 31, 2018; amended at 43 Ill. Reg. 2227, effective February 4, 2019.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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Section 140.439 Critical Access Care Pharmacy Payment

- a) To be eligible to receive a Critical Access Care Pharmacy Payment (CAP Payment), a pharmacy provider must:
- 1) Attest to meeting all the following criteria for the entire previous fiscal quarter:
 - A) Pharmacy is physically located within Illinois;
 - B) Pharmacy is brick and mortar, meaning the pharmacy location is open to the public, recipients present at the pharmacy to fill prescriptions, and the majority of the pharmacy's business is not mail order based;
 - C) Pharmacy owners have an ownership or control interest in fewer than 10 pharmacies; and
 - D) Pharmacy is located in a county with fewer than 50,000 residents, or is located in a county with 50,000 or more residents and in an area within Illinois that is designated as a Medically Underserved Area by the Health Resources & Services Administration (HRSA), an agency of the U.S. Department of Health and Human Services.
 - 2) Submit an attestation to the Department within 30 calendar days after the end of the fiscal quarter in a form and manner prescribed by the Department.
- b) CAP Payments for a fiscal year will be made quarterly and may not exceed the lesser of \$10,000,000 or the total amount specifically appropriated to the Department for CAP Payments.
- c) All CAP Payment calculations shall be based on "CAP-Eligible Claims", which are defined as pharmacy claims:
- 1) Billed by an eligible CAP to a Managed Care Organization (MCO) contracted with the Department for HealthChoice Illinois, or its successor program, for dates of service during the quarter being calculated;

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- 2) Paid for by the MCO; and
- 3) For which a paid encounter claim record exists in the Department's Electronic Data Warehouse (EDW) prior to 90 calendar days after the end of the quarter being calculated.
- d) Individual CAP Payments will be made to individual pharmacy providers that meet the requirements of subsection (a). Individual CAP Payment amounts are calculated using the total number of the individual pharmacy's CAP-Eligible Claims for the quarter being calculated multiplied by the lesser of:
 - 1) The individual payment amount; or
 - 2) The Department's dispensing fee for the medical assistance program in effect on April 1, 2018.
- e) The "individual payment amount" is equal to one quarter of the total amount appropriated for the CAP Program for a fiscal year divided by the total number of CAP-Eligible Claims for the quarter for all CAP pharmacies.
- f) To ensure the proper distribution of CAP Payments under this Section, the Department may conduct audits in accordance with 89 Ill. Adm. Code 140.30.
- g) Definitions. For purposes of this Section, an "ownership or control interest" shall have the same meaning as a person with an ownership or control interest as defined in 42 CFR 455.101.

(Source: Added at 43 Ill. Reg. 2227, effective February 4, 2019)

SUBPART E: GROUP CARE

Section 140.513 Notification of Admissions and Changes in Resident Status

- a) Long term care providers shall submit all changes in resident status, including, but not limited to, death, discharge, ~~bed reserve/temporary absence, requests for enhanced care rates,~~ changes in patient credit, and third party liability (TPL), ~~and Medicare coverage,~~ to the Department through the Medical Electronic Data Interchange (MEDI) system or through an, the Recipient Eligibility Verification

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~~(REV) System or~~ Electronic Data Interchange (EDI) ~~Service Vendor~~System (see Section 140.55), formerly known as Recipient Eligibility Verification (REV) system, within five business days after the change occurs, within the following timeframes:-

- 1) Death of a resident – 15 calendar days.
- 2) Discharge of a resident – 15 calendar days.
- 3) Changes in patient credit – 45 calendar days.
- 4) Third party liability – 45 calendar days.
- 5) Request for enhanced care rate – 45 calendar days from the effective date of the enhanced rate.

b) Admission data~~Admissions~~ shall be submitted as ~~follows~~follow:

- 1) For submission of admission data prior to September 1, 2014, admission data shall be submitted within 15 business days after the receipt by the long term care provider~~facility~~ of the information contained in the HFS 2536 Interagency Certification of Screening Results. Admission data shall be submitted through MEDI, REV or EDI, or the admission documents may be submitted directly to the Department of Human Services using required admission forms.
- 2) For submission of admission data on or after September 1, 2014, admission data, including all screening information, must be submitted through MEDI, REV or EDI within the same time frame as in subsection (b)(1). Admission documents submitted directly to the Department of Human Services shall not be accepted. Long term care providers ~~Facilities~~ shall not be required to submit admission documents directly to the Department of Human Services as a condition of compliance with this Section.
- 3) Effective for resident admissions on or after January 1, 2018, long term care providers shall have 45 calendar days to submit resident admission data to the Department by completing a long term care admission transaction. Confirmation numbers assigned to accepted long term care

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admission transactions shall be retained by a long term care provider to verify timely submittal. Day one of the 45 calendar day period commences on either: the date the long term care provider receives the required pre-admission screening results (HFS form 2536 (Interagency Certification of Screening Results) or HFS form 3864 (Screening Verification)) from the screening agent, or the admission date entered by the provider, whichever is later. Long term care providers shall complete a long term care admission transaction by submitting admission data through MEDI or through an EDI Service Vendor. If required, supporting documentation for the completed long term care admission transaction that cannot be submitted through MEDI or an EDI Service Vendor shall be submitted to the Department of Human Services caseworkers.

- 4) Any data or hard copy document provided to a long term care provider by an external entity or created by a long term care provider, for purposes of documenting a resident's long term care admission, shall be maintained, electronically or in hard copy, in the resident's file. This information will be used to verify receipt by the long term care provider of information contained in the required pre-admission screening results.
- c) Reported admissions and changes in resident status shall be used for the purposes of determining Medicaid reimbursement. Income verification for any patient credit change shall continue to be submitted to the Department of Human Services ~~local office~~ caseworker. All admissions and changes in resident status are subject to Department review.
- d) Long term care providers are responsible for training employees to comply with the deadlines outlined in this Section and maintaining proof of this training in accordance with Section 140.590. Failure to comply with the requirements outlined in this Section may result in denial or delay of payment or termination or suspension of the long term care provider's participation in the Medical Assistance Program.

(Source: Amended at 43 Ill. Reg. 2227, effective February 4, 2019)

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- 1) Heading of the Part: Long Term Care Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 153
- 3) Section Number: 153.125 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: February 4, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 16462; September 7, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: A statutory reference was updated.
- 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
- 15) Summary and Purpose of Rulemaking: This amendment implements PA 100-587 by:

increasing the reimbursement rate under the Medical Assistance Program for facilities licensed under the ID/DD Community Care Act and the MC/DD Act by an amount sufficient to provide, at minimum, a \$0.50 per hour wage increase to front-line personnel and

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increasing the per diem rate by \$21.15 for facilities with more than 16 beds licensed by the Department of Public Health under the ID/DD Community Care Act [210 ILCS 47] and located in the Department of Public Health's Planning Area 7-B.

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

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

HFS.Rules@Illinois.gov

The full text of the Adopted 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 e: GENERAL TIME-LIMITED CHANGES

PART 153

LONG TERM CARE REIMBURSEMENT CHANGES

Section

| | |
|---------|---|
| 153.100 | Reimbursement for Long Term Care Services |
| 153.125 | Long Term Care Facility Rate Adjustments |
| 153.126 | Long Term Care Facility Medicaid Per Diem Adjustments |
| 153.150 | Quality Assurance Review (Repealed) |

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

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16285, effective August 28, 1998; amended at 22 Ill. Reg. 19872, effective October 30, 1998; emergency amendment at 23 Ill. Reg. 8229, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12794, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13638, effective November 1, 1999; emergency amendment at 24 Ill. Reg. 10421, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15071, effective October 1, 2000; emergency amendment at 25 Ill. Reg. 8867, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14952, effective November 1, 2001; emergency amendment at 26 Ill. Reg. 6003, effective April 11, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 12791, effective August 9, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11087, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17817, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 11088, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18880, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 10218,

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effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005; amended at 29 Ill. Reg. 12452, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 616, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified pursuant to the Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 7817, effective April 7, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10417, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11853, effective July 1, 2006, for a maximum of 150 days; emergency expired November 27, 2006; amended at 30 Ill. Reg. 14315, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 18779, effective November 28, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 6954, effective April 26, 2007; emergency amendment at 32 Ill. Reg. 535, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 4105, effective March 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 7761, effective May 5, 2008; amended at 32 Ill. Reg. 9972, effective June 27, 2008; amended at 33 Ill. Reg. 9347, effective July 1, 2009; emergency amendment at 34 Ill. Reg. 17462, effective November 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 6171, effective March 28, 2011; amended at 35 Ill. Reg. 19524, effective December 1, 2011; emergency amendment at 36 Ill. Reg. 10416, effective July 1, 2012 through June 30, 2013; amended at 36 Ill. Reg. 17405, effective December 1, 2012; amended at 37 Ill. Reg. 10529, effective June 27, 2013; emergency amendment at 38 Ill. Reg. 15732, effective July 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 23799, effective December 2, 2014; emergency amendment at 39 Ill. Reg. 6956, effective May 1, 2015 through June 30, 2015; emergency amendment at 41 Ill. Reg. 12632, effective September 25, 2017, for a maximum of 150 days; amended at 42 Ill. Reg. 4594, effective February 20, 2018; emergency amendment at 42 Ill. Reg. 16562, effective August 27, 2018, for a maximum of 150 days; emergency expired January 23, 2019; amended at 43 Ill. Reg. 2253, effective February 4, 2019.

Section 153.125 Long Term Care Facility Rate Adjustments

- a) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates established on July 1, 1996 shall be increased by 6.8 percent for services provided on or after January 1, 1997.
- b) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1998, for services provided on or after that date, shall be increased by three percent. For nursing facilities (SNF/ICF) only, \$1.10 shall also be added to the nursing component of the rate.

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- c) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1999, for services provided on or after that date, shall include:
- 1) an increase of 1.6 percent for SNF/ICF, ICF/MR and developmental training rates;
 - 2) an additional increase of \$3.00 per resident day for ICF/MR rates; and
 - 3) an increase of \$10.02 per person, per month for developmental training rates.
- d) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF rates shall be increased by \$4.00 per resident day for services provided on or after October 1, 1999.
- e) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF, ICF/MR and developmental training rates shall be increased 2.5 percent per resident day for services provided on or after July 1, 2000.
- f) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2001 shall be computed using the most recent cost reports on file with the Department no later than April 1, 2000, updated for inflation to January 1, 2001.
- 1) The Uniform Building Value shall be as defined in 89 Ill. Adm. Code 140.570(b)(10), except that, as of July 1, 2001, the definition of current year is the year 2000.
 - 2) The real estate tax bill that was due to be paid in 1999 by the nursing facility shall be used in determination of the capital component of the rate. The real estate tax component shall be removed from the capital rate if the facility's status changes so as to be exempt from assessment to pay real estate taxes.
 - 3) For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.

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- 4) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under Section 153.125(f) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.
- g) Notwithstanding the provisions set forth in Section 153.100, intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled nursing facilities for persons under 22 years of age (SNF/Ped), shall receive an increase in rates for residential services equal to a statewide average of 7.85 percent. Residential rates taking effect March 1, 2001, for services provided on or after that date, shall include an increase of 11.01 percent to the residential program rate component and an increase of 3.33 percent to the residential support rate component, each of which shall be adjusted by the geographical area adjuster, as defined by the Department of Human Services (DHS).
- h) For developmental training services provided on or after March 1, 2001, for residents of long term care facilities, rates shall include an increase of 9.05 percent and rates shall be adjusted by the geographical area adjuster, as defined by DHS.
- i) Notwithstanding the provisions set forth in Section 153.100, daily rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 2.247 percent for services provided during the period beginning on April 11, 2002, and ending on June 30, 2002.
- j) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2002, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be reduced to the level of the rates in effect on April 10, 2002.
- k) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2002 will be 5.9 percent less than the rates in effect on June 30, 2002.
- l) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2003, for intermediate care facilities for persons with developmental

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disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3.59 percent.

- m) Notwithstanding the provisions set forth in Section 153.100, developmental training rates effective on July 1, 2003 shall be increased by 4 percent.
- n) Notwithstanding the provisions set forth in Section 153.100, pending the approvals described in this subsection (n), nursing facility (SNF/ICF) rates effective July 1, 2004 shall be 3.0 percent greater than the rates in effect on June 30, 2004. The increase is contingent on approval of both the payment methodologies required under Article 5A-12 of the Public Aid Code [305 ILCS 5/5A-12] and the waiver granted under 42 CFR 433.68.
- o) Notwithstanding the provisions set forth in Section 153.100, the "Original Building Base Cost" for nursing facilities (SNF/ICF) which have been rented continuously from an unrelated party since prior to January 1, 1978, effective on July 1, 2004, shall be added to the capital rate calculation using the most recent cost reports on file with the Department no later than June 30, 2004. The "Original Building Base Cost" as defined in 89 Ill. Adm. Code 140.570 shall be calculated from the original lease information that is presently on file with the Department. This original lease information will be used to capitalize the oldest available lease payment from the unrelated party lease that has been in effect since prior to January 1, 1978, and continued to be in effect on December 31, 1999. Before the lease payment is capitalized, a 15 percent portion will be removed from the oldest available lease payment for movable equipment costs. After the lease payment is capitalized, a portion of the capitalized amount will be removed for land cost. The land cost portion is 4.88 percent. The remaining amount will be the facility's building cost. The construction/acquisition year for the building will be the date the pre-1978 lease began. The allowable cost of subsequent improvements to the building will be included in the original building base cost. The original building base cost will not change due to sales or leases of the facility after January 1, 1978.
- p) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on January 1, 2005 will be 3.0 percent more than the rates in effect on December 31, 2004.
- q) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates shall be increased by the difference between a facility's per diem

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property, liability and malpractice insurance costs as reported in the cost report that was filed with the Department and used to establish rates effective July 1, 2001, and those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations.

- r) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on January 1, 2006 for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3 percent.
- s) Notwithstanding the provisions set forth in Section 153.100, developmental training rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), effective on January 1, 2006 shall be increased by 3 percent.
- t) Notwithstanding the provisions set forth in Section 153.100, for facilities that are federally defined as Institutions for Mental Disease (see Section 145.30), a socio-development component rate equal to 6.6% of the nursing component rate as of January 1, 2006 shall be established and paid effective July 1, 2006. This rate shall become a part of the facility's nursing component of the Medicaid rate. While this rate may be adjusted by the Department, the rate shall not be reduced.
- u) Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the support component of the rates taking effect on January 1, 2008 shall be computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006.
 - 1) Support rates taking effect on January 1, 2008 shall be adjusted based on audits of cost report data in accordance with 89 Ill. Adm. Code 140.582(b) and 140.590. The audited cost report data will be used to retroactively update the resulting support rate effective January 1, 2008, after the 45-day appeal period from Section 140.582(b) has passed.
 - 2) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under this subsection (u) shall be kept for a

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minimum of two years after the Department's final payment using rates that were based in part on that cost report.

- v) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 95-0744, for services beginning August 1, 2008, the socio-development component for facilities that are federally defined as Institutions for Mental Disease (see 89 Ill. Adm. Code 145.30) shall equal 6.6% of the facility's nursing component rate as of January 1, 2006, multiplied by a factor of 3.53.
- w) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 95-0744, for services beginning January 1, 2009, the support component for skilled and intermediate care facilities that was effective on January 1, 2008, computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006, shall be increased to the amount that would have been derived using standard Department of Healthcare and Family Services methods, procedures and inflators described in Sections 140.533, 140.551, 140.553 and 140.561.
- x) Notwithstanding the provisions set forth in Section 153.100, effective November 1, 2010, the program and support components of the per diem rate for ICF/MR qualifying under 89 Ill. Adm. Code 144.102 shall be adjusted in accordance with that Section.
- y) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 96-1530, for services beginning May 1, 2011, the socio-development component for facilities that are federally defined as Institutions for Mental Disease (IMD) (see 89 Ill. Adm. Code 145.30) and that are Medicaid certified will have the nursing component of their rate fully funded using the MDS methodology and will also receive an increase to their socio-development component rate. The socio-development component rate increase will be equal to two-thirds of the difference between the highest nursing rate among the Medicaid certified IMD facilities and the individual IMD's nursing rate. This rate change is subject to approval by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.
- z) Notwithstanding the provisions set forth in Section 153.100, effective for services beginning May 1, 2011, facilities that are federally defined as Institutions for Mental Disease (see 89 Ill. Adm. Code 145.30) and determined to be Subpart T

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facilities (see 89 Ill. Adm. Code 145.10) will receive an increase to their socio-development component rate of \$.50 per day, per resident.

- aa) Notwithstanding the provisions set forth in Section 153.100, effective for services beginning August 1, 2017, facilities licensed by the Department of Public Health under the ID/DD Community Care Act [210 ILCS 47] as an ID/DD facility and medically complex for the developmentally disabled facilities licensed under the MC/DD Act [210 ILCS 46] as an MC/DD facility will receive an increase to their reimbursement rates sufficient to provide a \$0.75 per hour wage increase for non-executive staff. This increase shall apply to the facility per diem rates and developmental training rates.
- bb) Notwithstanding the provisions set forth in Section 153.100, effective for services beginning July 1, 2018, facilities licensed by the Department of Public Health under the ID/DD Community Care Act [210 ILCS 47] or MC/DD Act [210 ILCS 46] will receive an increase to the facility per diem rates and developmental training rates as follows:
- 1) Facilities outside the geographic boundaries of the City of Chicago will receive an increase to their reimbursement rates sufficient to provide a \$0.50 per hour wage increase for front-line personnel.
 - 2) Facilities inside the geographic boundaries of the City of Chicago will receive an increase to their reimbursement rates sufficient to provide a \$0.54 per hour wage increase for front-line personnel.
- cc) Notwithstanding the provisions set forth in Section 153.100, pursuant to 305 ILCS 5/5-5.4(j), effective for services beginning July 1, 2018, the per diem rate will be increased by \$21.15 for facilities with more than 16 beds licensed by the Department of Public Health under the ID/DD Community Care Act [210 ILCS 47] and located in the Department of Public Health's Planning Area 7-B.

(Source: Amended at 43 Ill. Reg. 2253, effective February 4, 2019)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: AIM HIGH Grant Pilot Program
- 2) Code Citation: 23 Ill. Adm. Code 2766
- 3)

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
| 2766.10 | New Section |
| 2766.15 | New Section |
| 2766.20 | New Section |
| 2766.30 | New Section |
| 2766.40 | New Section |
| 2766.50 | New Section |
- 4) Statutory Authority: Implementing and authorized by Section 65.100 of the Higher Education Student Assistance Act [110 ILCS 947/65.100].
- 5) Effective Date of Rules: February 1, 2019
- 6) Does this rulemaking contain an automatic repeal date? Yes - October 1, 2024
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of this 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*: 42 Ill. Reg. 17233; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposed and Final Version: Minor grammatical and formatting changes were made, as well as some substantive changes based on anticipated program functionality.
- 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? Yes
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: Effective June 4, 2018, Section 65.100 was added to the Higher Education Student Assistance Act [110 ILCS 947/65.100] to create the AIM HIGH Grant Pilot Program. As a result, the rules to implement and administer the program were created.
- 16) Information and questions regarding these adopted rules shall be directed to:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor
Springfield IL 62704

217/782.5161
jackie.eckley@illinois.gov

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSIONPART 2766
AIM HIGH GRANT PILOT PROGRAM

Section

| | |
|---------|---|
| 2766.10 | Summary and Purpose |
| 2766.15 | Definitions |
| 2766.20 | Institutional Applicant Eligibility |
| 2766.30 | Program Procedures |
| 2766.40 | Institutional Procedures |
| 2766.50 | Student Applicant and Recipient Eligibility |

AUTHORITY: Implementing and authorized by Section 65.100 of the Higher Education Student Assistance Act [110 ILCS 947/65.100].

SOURCE: Former Part 2766 repealed at 31 Ill. Reg. 9523, effective July 1, 2007; new Part 2766 adopted by emergency rulemaking at 42 Ill. Reg. 17265, effective September 13, 2018, for a maximum of 150 days; new Part adopted at 43 Ill. Reg. 2263, effective February 1, 2019.

Section 2766.10 Summary and Purpose

- a) In an effort to increase enrollment of Illinois residents at Illinois public universities, increase overall retention of Illinois college students in Illinois, and encourage Illinois residents to attain a college degree, State appropriated funds are to be used to enable Illinois public universities to establish a merit-based, means-tested award program known as the Aspirational Institutional Match Helping Illinois Grow Higher Education Grant Pilot Program (AIM HIGH) to make college more affordable at their campuses while reducing the amount of student loan debt. Each eligible public university campus must match those funds with non-loan financial aid for eligible students and maintain or exceed levels of financial aid to Illinois residents from fiscal year 2018. ISAC is responsible for administering the distribution of AIM HIGH grant funds to the public universities in compliance with this Part and the AIM HIGH Grant Agreement.

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- b) This Part establishes rules that govern AIM HIGH. Additional rules and definitions are contained in General Provisions (23 Ill. Adm. Code 2700 and 44 Ill. Adm. Code 7000).

Section 2766.15 Definitions

"Illinois High School" – any high school located in Illinois whether or not recognized by the State Board of Education. [110 ILCS 947/65.100]

"Maintenance of Effort" or "MOE" – a requirement that in the academic year AIM HIGH funds are received by the public university campus, the total amount of qualifying non-loan financial aid the public university campus awards to its Illinois resident undergraduate students must be at least as much as those same awards in fiscal year 2018 and shall not include AIM HIGH funded awards or matching requirement awards made in that academic year.

"Matching Requirement" – a requirement that the public university campus use its own funds in the academic year for which the AIM HIGH funds are used:

to equally match those AIM HIGH funds allocated to it; and

to award non-loan financial aid to its students who meet at least the qualifications described in Section 2766.50(b).

"Public University" – any public 4-year university in Illinois. [110 ILCS 947/10]

"Public University Campus" – any campus under the governance or supervision of a public university. [110 ILCS 947/10]

"Qualifying Non-loan Financial Aid" – non-loan financial aid, the awarding of which is mostly within the control of the public university campus. The data requested to demonstrate this awarding shall be determined by ISAC and shall be applied uniformly across university campuses.

"Resident of Illinois" or "Illinois Resident" – defined by the laws governing eligibility for in-state tuition at the public university campus.

Section 2766.20 Institutional Applicant Eligibility

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- a) A public university applicant is eligible to apply for and receive an allocation of an appropriation of AIM HIGH funds if it:
- 1) submits a timely and complete application that includes a description of the award to be funded with AIM HIGH funds that meet program eligibility criteria in Section 2766.50(a), (b) and (c) to be used solely for non-loan financial aid at that university or university campus during the academic year, not including the summer term;
 - 2) certifies in good faith that it shall use its own funds, in the academic year for which the AIM HIGH funds are requested, to equally match those AIM HIGH funds allocated to it and award non-loan financial aid to its students who meet at least the qualifications described in Section 2766.50(b);
 - 3) certifies the total amount of qualifying non-loan financial aid it awarded to its Illinois resident undergraduate students in fiscal year 2018, which shall serve as a baseline for its MOE going forward;
 - 4) certifies that, during the academic year for which the AIM HIGH funds are requested, it shall, in addition to awards made for the matching requirement, make a good faith effort to award qualifying non-loan financial aid to its Illinois resident undergraduate students, not including AIM HIGH funded awards, in an amount that is at least equal to the amount of aid awarded to its Illinois resident undergraduate students at that public institution in fiscal year 2018, or if enrollment is less than in fiscal year 2018, that total amount calculated on a per student basis;
 - 5) has met all information reporting requirements in Section 2766.40(c);
 - 6) has not been suspended or disqualified from receiving an allocation for the upcoming academic year; and
 - 7) enters into an AIM HIGH Grant Agreement with ISAC.
- b) For renewal applications, in addition to complying with subsection (a), the public university campus shall:

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- 1) demonstrate that it met its matching requirement and MOE in the previous academic year;
- 2) in any academic year the public university campus fails to meet its entire matching requirement, demonstrate that it made a good faith effort to meet its matching requirement to be eligible for an allocation that is necessary to fund only renewal AIM HIGH funded awards in the next academic year; and
- 3) in any academic year when the public university campus fails to make its entire MOE, demonstrate that it made a good faith effort to make its MOE to be eligible for:
 - A) 100% of its allocation of AIM HIGH funds if, in the preceding academic year, the public university campus made its entire MOE;
 - B) 90% of the previous academic year's AIM HIGH funds received and distributed by the public university campus if it is the second consecutive academic year the public university campus fails to make its entire MOE; and
 - C) an allocation that is necessary to fund only renewal AIM HIGH funded awards in any academic year that is the third or more consecutive academic year that the public university campus fails to make its entire MOE.

Section 2766.30 Program Procedures

- a) Each year, in the month of August, ISAC will request from each public university campus the number of undergraduate students who are residents of Illinois and citizens or eligible noncitizens of the U.S. and who were enrolled at that public university campus in the previous academic year.
- b) ISAC will determine for each public university campus its proportionate allocation of appropriated funds for the upcoming academic year using enrollment data provided in subsection (a).

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- c) After determining the allocation of the appropriation for each public university campus, ISAC will inform each public university campus of the amount of its available allocation for the upcoming academic year.
- d) Annually, each public university campus may opt to apply for all or part of its allocation of appropriated funds.
- e) If a public institution does not request all or part of its allocation, ISAC will reallocate those unclaimed funds, using the same methodology as the initial allocation determination, among the remaining universities that have indicated a desire to receive an additional allocation.
- f) In order to receive a disbursement of AIM HIGH funds, the university campus shall complete an application that shall be in a form provided by ISAC and shall include, at a minimum, the following information and documentation:
 - 1) the amount of the allocation the university has claimed for the upcoming academic year;
 - 2) the total university campus funds used to match funds received from ISAC in the previous academic year, if any;
 - 3) the total number of undergraduate students who are residents of Illinois from the previous academic year;
 - 4) all information and certifications that demonstrate eligibility as described in Section 2766.20; and
 - 5) any other information or certifications required by law or the Grant Agreement.
- g) If the application is incomplete, ISAC will notify the applicant, who will have an opportunity to furnish the missing information. The application will only be considered for processing as of the date the completed application is received at ISAC's Springfield office at 500 West Monroe, 3rd Floor, Springfield IL 62704.
- h) A university that does not submit a complete and timely application may not be eligible to receive its allocation. Instead, its share may be distributed by ISAC using the allocation determination methodology in subsection (a) to make the

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remaining funds available for other universities that filed timely applications and indicate a desire for an additional allocation.

- i) The total amount of grant funds to be distributed among eligible applicant universities in a given academic year is contingent upon available funding from the previous fiscal year and whether all eligible institutions elect to receive their full allocation.
- j) No funds shall be distributed to the public university campus until all AIM HIGH funds from the previous academic year have been reconciled and any awarded funds not used to fund awards in compliance with Section 2766.20 have been returned.
- k) Depending upon the number of academic years and the degree to which the public university campus fails to make its matching requirement or MOE, the university campus may be suspended from participating in AIM HIGH in an academic year, but shall be eligible to regain eligibility in the academic year following the suspension.
- l) When making the determination to reduce an award under Section 2766.20(b)(2) and (3), or suspend a university campus from AIM HIGH for not meeting its matching requirement or MOE under subsection (k), ISAC shall take into account the circumstances that may have contributed to this failure, such as, but not limited to:
 - 1) a reduction in State appropriations to fund the public university campus in that academic year;
 - 2) the number of matching requirements or MOE qualifying awards offered by the public institution, but not accepted by students in that academic year; and
 - 3) the commitment demonstrated by the public university campus to maintaining level tuition and mandatory fees for Illinois residents over multiple academic years.

Section 2766.40 Institutional Procedures

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- a) In addition to complying with Section 2766.30, the public university campus shall be responsible for administering and making awards to students in compliance with this Section, Section 2766.50 and the policies of the university campus. For its own awards using its AIM HIGH allocation, a public university campus shall:
- 1) *establish the amount of the award based on an individual or broad basis in compliance with Section 2766.50 [110 ILCS 947/65.100];*
 - 2) establish reasonable criteria consistent with eligibility criteria in Section 2766.50;
 - 3) use grant funds solely to fund awards of non-loan financial aid at that university campus during the academic year, not including summer terms;
 - 4) renew the award each year for each student who meets the renewal criteria established by the public university campus, consistent with the renewal eligibility criteria in Section 2766.50, in amounts not less than the amount provided in the student's first year at that university campus;
 - 5) give preference to eligible renewal applicants in any academic year funding is insufficient to award to all eligible applicants;
 - 6) use its best efforts to delegate grant funds amongst a racially diverse range of students and not use a student's race, color, religion, sex (including gender identity, sexual orientation, or pregnancy), national origin, age, disability, or genetic information to disqualify him or her from receiving an AIM HIGH award (see P.A. 100-587 and P.A. 100-1015);
 - 7) post on its website the criteria and eligibility requirements and the amount of the AIM HIGH award and provide that information to ISAC and the Illinois Board of Higher Education (IBHE) to post on their respective websites (www.isac.org and www.ibhe.org);
 - 8) indicate in each initial student award application the renewal criteria for each academic year and not change those criteria for that recipient;
 - 9) make each renewal award contingent upon the availability of funding for the academic year in which the award is used; and

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- 10) reconcile and return the amount of AIM HIGH funds that were not used for awards in the academic year for which funds were granted before receiving the distribution of its allocation for the next academic year.
- b) Each institution shall be responsible for meeting its statutorily-mandated matching requirement and MOE to remain eligible for its allocation. (See Sections 2766.15 and 2766.20.)
- c) Annually, on or about the end of each academic year, in a format determined by ISAC, each participating public university campus shall report the following information to ISAC:
 - 1) *the Program's impact on tuition revenue and enrollment goals and increase in access and affordability at the public university campus;*
 - 2) *total funds received by the public university campus under the Program;*
 - 3) *total non-loan financial aid awarded to undergraduate students attending the public university campus;*
 - 4) *total amount of funds matched by the public university campus;*
 - 5) *total amount of funds refunded to ISAC by the public university campus;*
 - 6) *the percentage of total financial aid, including awards made with matching funds, distributed under the Program by the public university campus; and*
 - 7) *the total number of students receiving awards from the public university campus under the Program including awards made with matching funds and those students' name, date of birth, grade level, race, ethnicity, gender, income level, family size, Monetary Award Program eligibility, Pell Grant eligibility, ZIP code of residence, and the amount of each award and the total cost of attendance for each student after non-loan financial aid. This information shall include unit record data on those students regarding variables associated with the parameters of the public university campus' Program, including, but not limited to, a student's ACT or SAT college admissions test score, high school or university cumulative grade point average, or program of study. [110 ILCS 947/65.100]*

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Section 2766.50 Student Applicant and Recipient Eligibility

- a) An eligible student applicant for funding from an AIM HIGH allocation shall:
 - 1) have attended an Illinois high school;
 - 2) be engaged in a program of study (i.e., course) that in due course will be completed by the end of the school year;
 - 3) complete an application for the award no later than 12 months from the last date of the school year within which the coursework was completed;
 - 4) apply to be enrolled for the first time at the public university campus where the award will be used; and
 - 5) meet all the student eligibility qualifications and requirements under subsection (b) before receiving an award.

- b) In order to meet the eligibility qualifications and requirements, an award recipient shall:
 - 1) *be a resident of Illinois and a citizen or eligible noncitizen of the United States;*
 - 2) *file a Free Application for Federal Student Aid (FAFSA) and demonstrate financial need with a household income no greater than 6 times the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 USC 9902(2);*
 - 3) *meet the minimum cumulative grade point average or ACT or SAT college admissions test score, as determined by the public university campus;*
 - 4) *be enrolled in a participating public university campus as an undergraduate student on a full-time basis;*
 - 5) *have not yet received a baccalaureate degree or the equivalent of 135 semester credit hours;*

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- 6) *not be incarcerated;*
 - 7) *not be in default on any student loan nor owe a refund or repayment on any State or federal grant or scholarship; and*
 - 8) *meet any other reasonable criteria, as determined by the public university campus. [110 ILCS 947/65.100]*
- c) An AIM HIGH funded award recipient who meets the eligibility criteria for renewals shall be eligible for an AIM HIGH renewal award in subsequent academic years, the criteria for which shall be determined by the public university campus consistent with the criteria in this Section. AIM HIGH funded award renewal amounts shall be in an amount not less than the AIM HIGH funded amount from the renewal applicant's first year of attendance at the university campus, unless there is a reduction due to changes in the student's cost of attendance, including, but not limited to:
- 1) a reduction in credit hours in which he or she is enrolled, but remains a full time student; or
 - 2) switching to a course of study with a lower tuition rate.
- d) An AIM HIGH funded award recipient under subsection (a) or a renewal applicant shall be eligible for non-loan financial aid in the amount determined by the public university campus during the academic year, not including summer terms, and shall be eligible to receive other financial aid.
- e) The total amount of the AIM HIGH funds awarded to a qualified recipient in a given academic year, when added to other financial aid available to the qualified recipient for that year, shall not exceed the cost of attendance.
- f) Applicants eligible for an award using matching requirement funds must meet the criteria in subsection (b). Renewal availability and eligibility criteria shall be determined by the public university campus as required by subsection (b).

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- 1) Heading of the Part: Procurement
- 2) Code Citation: 44 Ill. Adm. Code 1400
- 3)

| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
|-------------------------|-------------------------|
| 1400.520 | Amendment |
| 1400.530 | Amendment |
| 1400.2020 | Amendment |
| 1400.2035 | Amendment |
| 1400.2525 | New Section |
| 1400.4015 | Amendment |
| 1400.4565 | Amendment |
- 4) Statutory Authority: Implementing and authorized by Section 1-30 of the Illinois Procurement Code [30 ILCS 500/1-30].
- 5) Effective Date of Rules: January 31, 2019
- 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 State Treasurer's office at 219 State House, Springfield, IL 62706 and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 18847; October 19, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between Proposal and Final Version: Minor revisions were made to subsections (A)(B) and (C) of Section 2525(b)(2) in order to clarify the language 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

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- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking updates the existing rule to adopt the small purchase limit of \$100,000 included in PA 100-43, effective August 9, 2017. Additionally, professional and artistic contracts are brought into the same small purchase limit and are no longer held to a separate limit. Furthermore, the rulemaking allows for multiple awards, specifies that the Treasurer's office may procure goods and services from vendors selected by the Federal General Services Administration, and incorporates preference guidelines from PA 100-969, which became effective August 19, 2018.
- 16) Information and questions regarding these adopted rules shall be directed to:

Chris Flynn
Assistant General Counsel
Illinois State Treasurer
400 W. Monroe St., Suite 401
Springfield IL 62704

217/558/0115
fax: 217/785-2777
e-mail: CFlynn@illinoistreasurer.gov

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING,
PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XXI: TREASURER

PART 1400
PROCUREMENT

SUBPART A: GENERAL

| Section | Title |
|----------|-----------------------------------|
| 1400.505 | Title |
| 1400.510 | Policy |
| 1400.515 | Applicability |
| 1400.520 | Definition of Terms |
| 1400.525 | Property Rights |
| 1400.530 | Governmental Joint Purchasing Act |

SUBPART B: PROCUREMENT AUTHORITY

| Section | Title |
|-----------|---------------------------|
| 1400.1005 | Chief Procurement Officer |
| 1400.1010 | Purchasing Officer |
| 1400.1015 | Small Business Specialist |

SUBPART C: PUBLICATION, SOLICITATION AND DOCUMENTATION

| Section | Title |
|-----------|---------------|
| 1400.1505 | Publication |
| 1400.1510 | Solicitation |
| 1400.1515 | Documentation |

SUBPART D: PROCUREMENT METHODS

| Section | Title |
|-----------|------------------------------|
| 1400.2005 | Competitive Sealed Bidding |
| 1400.2010 | Multi-Step Sealed Bidding |
| 1400.2015 | Competitive Sealed Proposals |
| 1400.2020 | Small Purchases |

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- 1400.2025 Sole Source Procurements
- 1400.2030 Emergency Procurements
- 1400.2035 Procurement of Professional and Artistic Services
- 1400.2040 Procurement of Real Property Leases
- 1400.2045 Other Methods of Source Selection

SUBPART E: GENERAL PROCUREMENT GUIDELINES

Section

- 1400.2505 General Provisions
- 1400.2510 Tie Bids and Proposals
- 1400.2515 Correction or Withdrawal of Proposals
- 1400.2520 Cancellation of Solicitations and Rejection of Offers
- [1400.2525 Multiple Awards](#)

SUBPART F: SPECIFICATIONS AND SECURITY REQUIREMENTS

Section

- 1400.3005 Specifications
- 1400.3010 Security Requirements

SUBPART G: CONTRACTS

Section

- 1400.3505 Types of Contracts
- 1400.3510 Duration of Contracts
- 1400.3515 Contract Pricing
- 1400.3520 Contract Provisions
- 1400.3525 Prevailing Wage Requirements

SUBPART H: DISPUTES, PROTESTS AND CONTROVERSIES

Section

- 1400.4005 Disputes and Protests Regarding Solicitations and Awards
- 1400.4010 Contract Controversies
- 1400.4015 Remedies
- 1400.4020 Suspension

SUBPART I: PREFERENCES

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Section

| | |
|-----------|---|
| 1400.4505 | Procurement Preferences |
| 1400.4510 | Resident Vendor Preference |
| 1400.4515 | Soybean Oil-based Ink |
| 1400.4520 | Recycled Supplies |
| 1400.4525 | Recycled Paper |
| 1400.4526 | Environmentally Preferable Procurement |
| 1400.4530 | Special Sources |
| 1400.4535 | Sheltered Workshops for the Disabled (Repealed) |
| 1400.4540 | Vehicles |
| 1400.4545 | Illinois Agricultural Products |
| 1400.4550 | Corn-based Plastics |
| 1400.4555 | Vehicles Powered by Agricultural Commodity-based Fuel |
| 1400.4560 | Small Businesses |
| 1400.4565 | Preferences for Veterans, Minorities, Women <u>Females</u> , and Persons with Disabilities |

SUBPART J: ETHICS

Section

| | |
|-----------|--|
| 1400.5005 | Purpose |
| 1400.5010 | Bribery |
| 1400.5015 | Felons |
| 1400.5020 | Conflicts of Interest |
| 1400.5025 | Negotiations for Future Employment |
| 1400.5030 | Revolving Door |
| 1400.5035 | Disclosure of Financial Interests and Potential Conflicts of Interest |
| 1400.5037 | Vendor Registration and Certification and Prohibition on Political Contributions |
| 1401.5040 | Reporting Anticompetitive Practices |
| 1400.5045 | Confidentiality |
| 1400.5050 | Insider Information |
| 1400.5055 | Additional Provisions |
| 1400.5060 | Other Violations |
| 1400.5065 | Supply Inventory |

SUBPART K: CONCESSIONS

Section

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1400.5505 Concessions

SUBPART L: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section

| | |
|-----------|--|
| 1400.6005 | Severability |
| 1400.6010 | Government Furnished Property (Repealed) |
| 1400.6015 | Inspections |
| 1400.6020 | No Waiver of Sovereign Immunity |
| 1400.6025 | Postage Stamps |
| 1400.6030 | Printing |
| 1400.6035 | Annual Reports |

AUTHORITY: Implementing and authorized by Section 1-30 of the Illinois Procurement Code [30 ILCS 525/1-30].

SOURCE: Adopted by emergency rule at 22 Ill. Reg. 13169, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 15644, effective August 24, 1998; amended by emergency rule at 24 Ill. Reg. 358, effective January 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 8393, effective May 30, 2000; recodified Title of the Part at 39 Ill. Reg. 5903; amended at 40 Ill. Reg. 13847, effective September 23, 2016; amended at 43 Ill. Reg. 2275, effective January 31, 2019.

SUBPART A: GENERAL

Section 1400.520 Definition of Terms

Each term listed in this Section has the meaning below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in those Sections.

"Award" – The determination that a particular vendor has been selected from among other potential vendors to enter into negotiations for the purpose of finalizing a contract.

"Bid" – A response to an Invitation for Bids.

"Bidder" – The person or entity submitting a bid.

"Brand Name or Equal Specification" – A specification that uses one or more

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manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet Treasurer's office requirements, and that allows the submission of equivalent products.

"Brand Name Specification" – A specification limited to one or more items by manufacturer's names or catalogue numbers.

"Code" means the Illinois Procurement Code [30 ILCS 500].

"Chief Legal Counsel" – An attorney for the Treasurer's office who reports directly to the Chief of Staff and is primarily responsible for the legal functioning of the Treasurer's office.

"Chief of Staff" – The Chief of Staff for the Treasurer's office.

"Chief Procurement Officer" – The employee of the Treasurer's office who is appointed by the Treasurer to be primarily responsible for the procurement of all goods and services by the Treasurer's office.

"Contract" – *All types of State agreements, regardless of what they may be called:*

for the procurement, use or disposal of supplies, services, professional or artistic services, or construction; or for leases of real property when the State is the lessee; or for capital improvements; and

including renewals, master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders. [30 ILCS 500/1-15.30]

The term contract, as used in this Part, does not include supplies or services for which the governing terms are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission and for which there is no authorized competition.

"Contractor" or "Vendor" – The terms contractor and vendor are used interchangeably for purposes of this Part. When appropriate, the term "vendor" shall also include subcontractors.

"Day" – Calendar day as opposed to business day. In computing any period of

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time, the day of the event from which the designated period of time begins to run is not included, but the last day of the period is included unless it is a Saturday, Sunday, or a State holiday, in which event the period runs to the end of the next business day.

"Deputy Treasurer" – An individual with the title Deputy Treasurer, appointed by the Treasurer, who reports directly to the Treasurer.

"Invitation for Bids" or "IFB" – A document prepared and distributed by the Treasurer's office soliciting bids for the provision of goods or services to the Treasurer's office.

"Multiple Award" – An award that is made to 2 or more bidders or offerors for similar supplies, services, or construction-related services. [30 ILCS 500/1-15.48]

"Offer" – A bid, proposal, or response solicited by the Treasurer's office.

"Offeror" – The person or entity submitting a bid, proposal or response solicited by the Treasurer's office.

"Procurement Review Board" – A board composed of the Chief of Staff, the Chief Legal Counsel, and the Deputy Treasurer for the Treasurer's office.

"Professional and Artistic Services" – Those services provided under contract to the Treasurer's office by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability. [30 ILCS 500/1-15.60]

"Proposal" – A response to a Request for Proposals.

"Proposer" – The person or entity submitting a proposal.

"Purchasing Officer" – One or more employees of the Treasurer's office that serve at the direction of the Chief Procurement Officer and are responsible for coordinating the procurement activity of the Treasurer's office.

"Request for Information" or "RFI" – The process of requesting information from interested parties to aid the Treasurer in decision making. This type of RFI is not

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a procurement method and will not result in a participant receiving a contract.

"Request for Information for Real Property" or "RFI-Real Property Leases" – The process of seeking proposals for leases of real property or capital improvements.

"Request for Proposals" or "RFP" – The process by which the Treasurer's office requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals for the provision of goods or services to the Treasurer's office.

"Respondent" – The person or entity submitting a response to a Request for Information or a Request for Proposals from the Treasurer's office.

"Response" – A response to a Request for Information.

"Responsible Bidder, Proposer or Respondent" – A person or entity that is capable in all respects of performing fully the contract requirements and has the integrity and reliability that will assure good faith performance.

"Responsive Bidder" – A person or entity that has submitted a bid conforming in all material respects to an Invitation for Bids or Request for Proposal.

"Small Business Specialist" – An employee of the Treasurer's office who is responsible for assisting small businesses in submitting offers to the Treasurer's office for the provision of goods and services.

"Solicitation" – An Invitation for Bids, Request for Proposals or Request for Information.

"Solicitation Date" – The date that bids or proposals are solicited for the provision of goods or services to the Treasurer's office by communicating the solicitation orally, depositing the solicitation in the U.S. Mail or posting the solicitation electronically, whichever occurs first.

"Specification" – Any description of the physical, functional or performance characteristics or of the nature of a supply, a service, or construction items. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, a service, or construction item for delivery.

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"Subcontract" means a contract between a person and a person who has a contract subject to this Part, pursuant to which the subcontractor provides to the contractor, or, if the contract price exceeds \$50,000, another subcontractor, some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency. For purposes of this Part, a "subcontract" does not include purchases of goods or supplies that are incidental to the performance of a contract by a person who has a contract subject to the Code. [30 ILCS 500/1-15.107]

"Subcontractor" means a person or entity that enters into a contractual agreement with a total value of \$50,000 or more with a person or entity who has a contract subject to this Part pursuant to which the person or entity provides some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary State contract, including subleases from a lessee of a State contract. For purposes of this Part, a person or entity is not a "subcontractor" if that person only provides goods or supplies that are incidental to the performance of a contract by a person who has a contract subject to this Part. [30 ILCS 500/1-15.108]

"Treasurer's Web Site" – The Web Site of the Office of the Illinois State Treasurer at www.illinoistreasurer.gov or successor.

(Source: Amended at 43 Ill. Reg. 2275, effective January 31, 2019)

Section 1400.530 Governmental Joint Purchasing Act

- a) The Treasurer's office may, without soliciting independent bids, proposals or responses, procure goods and services from vendors selected by the Department of Central Management Services (CMS), [the federal General Services Administration](#), or another governmental unit in accordance with a competitive selection process established pursuant to the Governmental Joint Purchasing Act [30 ILCS 525].
- b) The Treasurer's office may enter into agreements to make joint purchases pursuant to the Governmental Joint Purchasing Act and may act as a lead state or a participant state. *The purchases of all personal property, supplies and services under the Governmental Joint Purchasing Act shall be based on competitive, sealed bids. All purchases, orders or contracts shall be awarded to the lowest*

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responsible bidder, taking into consideration the qualities of the articles or services supplied, their conformity with the specifications, their suitability to the requirements of the participating governmental units and the delivery terms. [30 ILCS 525/4]

(Source: Amended at 43 Ill. Reg. 2275, effective January 31, 2019)

SUBPART D: PROCUREMENT METHODS

Section 1400.2020 Small Purchases

- a) **Application**
Any individual procurement of supplies or services that does not exceed ~~\$100,000~~~~\$80,000~~ may, at the discretion of the Chief Procurement Officer, be made without notice, competition, publication, or use of any prescribed method of source selection. Each July 1 the small purchase maximum shall be subject to the annual cost of living increases set forth in subsection (b). Procurements of less than ~~\$100,000~~~~\$20,000~~ for professional and artistic services, and that have a nonrenewable term of one year or less, may, at the discretion of the Chief Procurement Officer, be made without advance notice, competition or use of any prescribed method of source selection.
- b) **Adjustment**
The small purchase maximums may be adjusted for inflation as determined by the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor and rounded to the nearest \$100. In determining the annual small purchase maximums, the CPO may rely upon a published adjustment of the small purchase limits announced by the Chief Procurement Office for General Services pursuant to the procedure found at 44 Ill. Adm. Code 1.2020.
- c) In determining whether a contract is under the limit, the value of the contract for the full term and any optional renewals, as well as the stated value of the goods or services plus any optional goods and services, determined in good faith, must be utilized. Where the term is calculated month-to-month or in a similar fashion, the amount must be calculated for a 12-month period.
- d) Procurement requirements must not be artificially divided to avoid using one of the other source selection methods described in this Part.

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- e) If, after signing the contract, the actual need is determined to be more than the limits provided in this Section, and the Chief Procurement Officer determines that reprourement is not appropriate, the Chief Procurement Officer may follow the procedures for sole source or emergency procurement, if applicable, to obtain the additional supplies or services.

(Source: Amended at 43 Ill. Reg. 2275, effective January 31, 2019)

Section 1400.2035 Procurement of Professional and Artistic Services

- a) The provisions of this Section apply to the procurement of professional and artistic services with the exception of the following:
- 1) sole source procurements;
 - 2) emergency procurements;
 - 3) any procurement of professional and artistic services less than ~~\$100,000~~\$20,000 for a nonrenewable term of less than one year made as a small purchase; and
 - 4) architect, engineering and land surveying services procured pursuant to the procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535].
- b) **Written Determinations Required Prior to Request for Proposals**
Prior to announcing the need for professional or artistic services, the Chief Procurement Officer shall make a written determination that explains the nature of the services and how the Chief Procurement Officer reached the determination that the services are professional or artistic. The written determination must be made part of the procurement file.
- c) Professional and artistic services shall be procured using a Request for Proposals.
- 1) **Contents.** The RFP must be drafted or approved by the Chief Procurement Officer and must contain at least the following information:
 - A) the type and scope of services required;

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- B) a date by which proposals for the performance of the services must be submitted;
 - C) the type of information and data required of each offeror;
 - D) how the price should be presented;
 - E) the factors to be used in the evaluation and selection process and their relative importance (all evaluation factors stated will be considered equally unless otherwise indicated in the RFP); and
 - F) when practicable, a draft contract with a notice to the vendors that by submitting a response they are consenting to the terms and conditions of the draft agreement and agree to be bound by a final agreement that is substantially similar to the draft.
- 2) Evaluation. Proposals must be evaluated only on the basis of evaluation factors stated in the Request for Proposals. The relative importance of the evaluation factors will vary according to the type of services being procured. Factors may include:
- A) the plan for performing the required services;
 - B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
 - C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
 - D) a record of past performance of similar work.
- 3) Publication and Filing. The Request for Proposal must be published as provided in Section 1400.1505 and must be made part of the procurement file.
- d) Bidders' Conferences

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Bidders' conferences may be conducted to enhance understanding of the procurement requirements. The conference may be designated as attendance mandatory or attendance optional. The conference should be held long enough after the Request for Proposals has been issued to allow proposers to become familiar with it, but sufficiently before the opening of proposals to allow consideration of the conference results in preparing their proposals. Any questions posed in a bidders' conference shall be subsequently submitted in writing and, along with the answers, shall be published on the Treasurer's Web Site as provided in Section 1400.1505. Nothing stated in the bidders' conference changes the Request for Proposals unless a change is made by written amendment to the Request for Proposals. The Chief Procurement Officer shall cause a listing of all attendees at a bidders' conference to be prepared and made a part of the procurement file.

e) Amendments to Requests for Proposals

- 1) Form. Amendments to Requests for Proposals must be published as provided in Section 1400.1505 and must be made part of the procurement file.
- 2) Distribution. Amendments must be sent to all prospective proposers known to have received a Request for Proposal.
- 3) Timeliness. Amendments must be published within a reasonable time to allow prospective bidders to consider them in preparing their bids. If necessary, the Chief Procurement Officer may extend the response time by amending the RFP as provided for in this subsection (e)(3).

f) Receipt and Handling of Proposals

Proposals and modifications must be sent to the Chief Procurement Officer where they must be recorded upon receipt, but not opened, and held in a secure place until the established due date and time, at which time they will be opened by the Chief Procurement Officer. Proposals must not be opened publicly nor disclosed to unauthorized persons and must be opened in the presence of at least one witness. A record of proposals that includes the following must be established for all proposals: the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the services offered. The record of proposals must be open to public inspection only after award of the contract and must be made part of the procurement file at that time.

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- g) Discussions
- 1) Discussions Permissible. The Chief Procurement Officer shall evaluate all proposals submitted and may conduct discussions with any proposer. The purposes of the discussions are to:
 - A) determine in greater detail the proposer's qualifications; and
 - B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach.
 - 2) No Disclosure of Information. No information derived from proposals submitted by an offeror may be disclosed to any other proposer.
 - 3) Best and Final Offers. The Chief Procurement Officer may request best and final offers with a common date and time for submission of the proposals. The Chief Procurement Officer may conduct additional discussions or change the specifications or other contract requirements and require another submission of best and final proposals. If a proposer does not submit either a notice of withdrawal or another best and final offer, the proposer's immediate previous proposal will be construed as its best and final proposal.
- h) Negotiation and Award of Contract
- 1) General. The Chief Procurement Officer, in conjunction with the Chief Legal Counsel or designee, shall negotiate a contract with the best qualified proposer, based on the evaluation factors in the request for proposals, for the required services at compensation determined in writing to be fair and reasonable.
 - 2) Successful Negotiation of Contract with Best-Qualified Proposer. If compensation, contract requirements, and contract documents can be agreed upon with the best-qualified proposer, the contract must be awarded to that proposer, unless the procurement is cancelled.
 - 3) Failure to Negotiate Contract with Best-Qualified Offeror

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- A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified proposer, a written record stating the reasons must be made part of the procurement file and the Chief Procurement Officer shall advise that proposer of the termination of negotiations.
 - B) Upon failure to negotiate a contract with the best-qualified offeror, the Chief Procurement Officer may enter into negotiations with the next most qualified offeror.
- 4) Evaluation of Pricing Data
Pricing submitted for all acceptable proposals timely submitted shall be opened and ranked.
- A1) If the low price is submitted by the most qualified vendor, the CPO may award to that vendor.
 - B2) If the price of the most qualified vendor is not low and if it does not exceed ~~\$100,000~~\$30,000, the CPO may award to that vendor.
 - C3) If the price of the best qualified vendor exceeds ~~\$100,000~~\$30,000, the CPO must state why a vendor other than the low priced vendor was selected and that determination shall be published as provided in Section 1400.1505 and must be made part of the procurement file.
- 5) Notice of Award. Written notice of award must be promptly provided to the successful offeror, published as provided in Section 1400.1505 and made a part of the procurement file. The notice must provide, at a minimum, the following:
- A) the name of the Chief Procurement Officer;
 - B) the successful vendor;
 - C) the type of services to be provided; and
 - D) the amount of the contract, which may be an amount not-to-

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exceed, along with any applicable rates.

(Source: Amended at 43 Ill. Reg. 2275, effective January 31, 2019)

SUBPART E: GENERAL PROCUREMENT GUIDELINES

Section 1400.2525 Multiple Awards

- a) Policy
When determined by the Chief Procurement Officer to be in the best interest of the State, the Treasurer's office may make multiple awards under any solicitation.

- b) Specific Goods and Services Following Multiple Awards
Subject to this subsection, specific goods and services may be purchased following multiple awards:
 - 1) When the solicitation identified the specific good or service sought but led to multiple awardees, the specific good or service may be procured from the lowest bidder or best qualified proposer with whom relevant terms can be successfully negotiated.

 - 2) When the solicitation did not list the specific good or service sought but led to multiple awards to vendors similarly qualified to provide the good or service, the specific good or service may be purchased from one of the multiple awardees; provided, however, that for the purchase of that good or service:
 - A) the Chief Procurement Officer shall maximize competition among the multiple awardees;

 - B) the determination shall allow for additional competition when the original solicitation produced insufficient information on the awardees' pricing for, or abilities to provide, the specific good or service sought; and

 - C) following any such competition, the Chief Procurement Officer shall award to the lowest bidder or best qualified proposer with whom relevant terms can be successfully negotiated.

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(Source: Added at 43 Ill. Reg. 2275, effective January 31, 2019)

SUBPART H: DISPUTES, PROTESTS AND CONTROVERSIES

Section 1400.4015 Remedies

- a) In all of the following cases the Chief Procurement Officer may, with the approval of the Treasurer and subject to the determination of the Chief Legal Counsel under subsection (b), terminate or rescind any contract entered into under this Part in the event:
- 1) The successful bidder or proposer fails to furnish a satisfactory performance or performance bond within the time specified.
 - 2) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered.
 - 3) Any goods or services provided under the contract are:
 - A) rejected (for not meeting the specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced or corrected by the vendor; or
 - B) repeatedly rejected, even though the vendor offers to replace or correct the goods or services promptly.
 - 4) There is sufficient evidence to show that the contract was obtained by fraud, collusion, conspiracy or other unlawful means.
 - 5) The vendor is guilty of misrepresentation in connection with another contract for the sale of goods or services to the State.
 - 6) The vendor is insolvent, is the subject of a bankruptcy filing, is adjudged bankrupt, or enters into a general assignment for the benefit of his or her creditors or receivership due to insolvency.
 - 7) The vendor disregards laws and ordinances, rules or instructions of a contracting officer or acts in violation of any provision of the contract or this Part, or the contract conflicts with any statutory or constitutional

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provision of the State of Illinois or of the United States.

- 8) Any other material breach of contract or other unlawful act by the vendor occurs.
- b) **Determination of Right to Terminate or Rescind Contract**
The Chief Legal Counsel shall determine in writing that a violation listed in subsection (a) has occurred prior to the termination or rescission of a contract under this Section.
- c) Contracts that are terminated under this Section will be terminated at no cost to the State.
- d) **Withholding Money to Compensate State for Damages**
If a contract is terminated or rescinded under this Section, the State may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on his or her part on which the cancellation is based.
- e) **Damages**
The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy include, but are not limited to, the following:
 - 1) the additional cost of goods or services bought elsewhere;
 - 2) cost of repeating the procurement procedure;
 - 3) any expenses incurred because of delay in receipt of goods or services;
and
 - 4) any other damages caused by the vendor's breach of contract or unlawful act.
- f) **Effect of Declaring a Contract Null and Void**
In all cases where a contract is voided, the Treasurer's office will endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments will be made under the contract.

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- g) In lieu of terminating or rescinding the contract, when appropriate the Chief Procurement Officer may seek to negotiate an alternative resolution that is at least as beneficial to the State as termination or rescission, but the Chief Procurement Officer must not waive the right to terminate or rescind the contract if the situation does not improve.

(Source: Amended at 43 Ill. Reg. 2275, effective January 31, 2019)

SUBPART I: PREFERENCES

Section 1400.4565 Preferences for Veterans, Minorities, WomenFemales, and Persons with Disabilities

This Part is subject to the applicable provisions of the Veterans Preference Act [330 ILCS 55], ~~and the Business Enterprise for Minorities, WomenFemales, and Persons with Disabilities Act [30 ILCS 575], and the State Treasurer Act [15 ILCS 505].~~ *It is the goal of the State to promote and encourage the continued economic development of small businesses owned and controlled by qualified veterans and that qualified service-disabled veteran-owned small businesses (referred to as SDVOSB) and veteran-owned small businesses (referred to as VOSB) participate in the State's procurement process as both prime contractors and subcontractors. [30 ILCS 500/45-57] Upon direction of the CPO, the Treasurer's office may establish goals and other such preferences for contracting or subcontracting with certified SDVOSB and VOSB.* The Chief Procurement Officer shall do whatever is reasonably necessary to enable veterans, minorities, womenfemales and persons with disabilities to participate in the procurement process. The Chief Procurement Officer may rely on the determination of CMS and/or the Department of Veterans' Affairs that a person or business qualifies for a preference under these Acts. It is hereby declared to be the policy of the State Treasurer to promote and encourage the use of businesses owned by or under the control of qualified veterans of the armed forces of the United States, qualified service-disabled veterans, minority persons, women, or persons with a disability in the area of goods and services. Furthermore, the State Treasurer shall utilize such businesses to the greatest extent feasible within the bounds of financial and fiduciary prudence, and take affirmative steps to remove any barriers to the full participation of such firms in the procurement and contracting opportunities afforded. [15 ILCS 505/30(b)]

- a) Definitions
For the purposes of this Section:

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- 1) any terms "minority person", "woman", "person with a disability", "minority-owned business", "women-owned business", "business owned by a person with a disability", and "control" have the meanings provided in Section 1 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act; and
 - 2) the terms "veteran", "qualified veteran-owned small business", "qualified service-disabled veteran-owned small business", "qualified service-disabled veteran", and "armed forces of the United States" have the meanings provided in Section 45-57 of the Illinois Procurement Code. [15 ILCS 505/30(a)]
- b) Procurement of Goods and Services
When the State Treasurer procures goods and services, whether through a request for proposal or otherwise, the Chief Procurement Officer is authorized to incorporate preferences in the scoring process for:
- 1) any of the following:
 - A) a minority-owned business;
 - B) a women-owned business;
 - C) a business owned by a person with a disability;
 - D) a qualified veteran-owned small business; or
 - E) a qualified service-disabled veteran-owned small business; and
 - 2) businesses having a record of support for increasing diversity and inclusion in board membership, management, employment, philanthropy, and supplier diversity, including investment professionals and investment sourcing. [15 ILCS 505/30(d)]
- c) Utilization of Financial Institutions
When the State Treasurer utilizes a financial institution or determines the eligibility of a financial institution to participate in a banking contract, investment contract, investment activity, or other financial program of the State Treasurer, he or she shall review the financial institution's Community Reinvestment Act (29

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USC 2901) rating, record, and current level of financial commitment to the community prior to making a decision to utilize or determine the eligibility of such financial institution. [15 ILCS 505/30(d)]

- d) Reporting
Beginning with fiscal year 2019, and at least annually thereafter, the State Treasurer shall report on his or her utilization of minority-owned businesses, women-owned businesses, businesses owned by a person with a disability, qualified veteran-owned small businesses, or qualified service-disabled veteran-owned small businesses. The report shall be published on the State Treasurer's official website. [15 ILCS 505/30(e)]

(Source: Amended at 43 Ill. Reg. 2275, effective January 31, 2019)

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Illinois Public Treasurers' Investment Pool for Public Treasurers in the State of Illinois
- 2) Code Citation: 74 Ill. Adm. Code 740
- 3)

| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
|-------------------------|-------------------------|
| 740.5 | Repealed |
| 740.10 | Repealed |
| 740.20 | Repealed |
| 740.30 | Repealed |
- 4) Statutory Authority: Implementing and authorized by Sections 7 and 17 of the State Treasurer Act [15 ILCS 505/7 and 17].
- 5) Effective Date of Repealer: January 31, 2019
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer is on file in the State Treasurer's office at 219 State House, Springfield IL 62706 and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17103; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference 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? Yes
- 13) Will this repealer replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: This outdated rule is being repealed and replaced with a new proposed rule in order to provide further guidance on the process for state and local governments to utilize this convenient investment pool option, including the

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Treasurer's responsibilities, the custodian bank's responsibilities, and the enrollment process.

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

Barbara Delano
Assistant General Counsel
Illinois State Treasurer
15-600 James R. Thompson Center
Chicago IL 60601

312/814-2985

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- 1) Heading of the Part: Illinois Public Treasurers' Investment Pool for Public Treasurers in the State of Illinois
- 2) Code Citation: 74 Ill. Adm. Code 740
- 3)

| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
|-------------------------|-------------------------|
| 740.100 | New Section |
| 740.110 | New Section |
| 740.200 | New Section |
| 740.300 | New Section |
| 740.310 | New Section |
| 740.320 | New Section |
| 740.330 | New Section |
| 740.340 | New Section |
| 740.400 | New Section |
| 740.410 | New Section |
| 740.420 | New Section |
| 740.500 | New Section |
- 4) Statutory Authority: Implementing and authorized by Sections 7 and 17 of the State Treasurer Act [15 ILCS 505/7 and 17].
- 5) Effective Date of Rules: January 31, 2019
- 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 is on file in the State Treasurer's office at 219 State House, Springfield IL 62706 and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17109; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rule? No
- 11) Difference 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? None were made.

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- 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 updates the existing Part and provides further guidance on the process for State and local governments to utilize this convenient investment pool option, including the Treasurer's responsibilities, the custodian bank's responsibilities, and the enrollment process.
- 16) Information and questions regarding these adopted rules shall be directed to:

Barbara Delano
Assistant General Counsel
Illinois State Treasurer
15-600 James R. Thompson Center
Chicago IL 60601

312/814-2985

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

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TITLE 74: PUBLIC FINANCE

CHAPTER V: TREASURER

PART 740

ILLINOIS PUBLIC TREASURERS' INVESTMENT POOL FOR PUBLIC
TREASURERS IN THE STATE OF ILLINOIS

SUBPART A: INTRODUCTION AND PURPOSE

| | |
|---------|---------------|
| Section | |
| 740.100 | Establishment |
| 740.110 | Purpose |

SUBPART B: DEFINITIONS

| | |
|---------|-------------|
| Section | |
| 740.200 | Definitions |

SUBPART C: ADMINISTRATION

| | |
|---------|---|
| Section | |
| 740.300 | Treasurer Responsibilities |
| 740.310 | Investment Policy |
| 740.320 | Custodian Bank Responsibilities |
| 740.330 | Fees |
| 740.340 | Allocation of Investment Earnings or Losses |

SUBPART D: PARTICIPATION AND ENROLLMENT IN IPTIP

| | |
|---------|---------------|
| Section | |
| 740.400 | Participation |
| 740.410 | Enrollment |
| 740.420 | Termination |

SUBPART E: CUSTODIAL ACCOUNT

| | |
|---------|-------------------|
| Section | |
| 740.500 | Custodial Account |

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AUTHORITY: Authorized by and implementing Sections 7 and 17 of the State Treasurer Act [15 ILCS 505/7 and 17].

SOURCE: Illinois Public Treasurers' Investment Pool for Public Treasurers in the State of Illinois, effective December 29, 1977; codified at 5 Ill. Reg. 11090; amended at 17 Ill. Reg. 6663, effective April 19, 1993; amended at 25 Ill. Reg. 14527, effective October 23, 2001; emergency amendment at 35 Ill. Reg. 8893, effective May 26, 2011, for a maximum of 150 days; emergency amendment suspended at 35 Ill. Reg. 12832, effective July 14, 2011; suspension withdrawn at 35 Ill. Reg. 14862, effective August 17, 2011; amended at 35 Ill. Reg. 14659, effective August 17, 2011; former Part repealed at 43 Ill. Reg. 2297 and new Part adopted at 43 Ill. Reg. 2299, effective January 31, 2019.

SUBPART A: INTRODUCTION AND PURPOSE

Section 740.100 Establishment

This Part governs the Illinois Public Treasurers' Investment Pool for Public Treasurers in the State of Illinois, permitted by Sections 7 and 17 of the Act.

Section 740.110 Purpose

- a) The Act allows the Treasurer to establish and administer a Public Treasurers' Investment Pool called Illinois Funds to supplement and enhance the investment opportunities otherwise available to other custodians of public funds for public agencies in this State.
- b) In administering the Illinois Public Treasurers' Investment Pool, the Act permits the Treasurer to *receive public funds paid into the pool by any other custodian of such funds* and to *serve as the fiscal agent of that custodian of public funds for the purpose of holding and investing those funds.* [15 ILCS 505/17]
- c) Pursuant to this authority, the Treasurer has established IPTIP, which provides units of State and local government a convenient investment pool option that utilizes the Treasurer's resources to safely invest their funds while allowing participants to enjoy economies of scale. IPTIP allows participants to safely invest their monies, while providing a competitive rate of return and daily access to invested funds. IPTIP assists participants in complying with the Deposit of State Moneys Act [15 ILCS 520] or the Public Funds Investment Act [30 ILCS 235], as applicable.

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SUBPART B: DEFINITIONS

Section 740.200 Definitions

"Act" means the State Treasurer Act [15 ILCS 505].

"Custodian Bank" means the financial institution, designated by the Treasurer, responsible for fund accounting, recordkeeping, transfer agent, custodial and trust services for IPTIP.

"Custodian Bank Agreement" means the participant agreement that sets forth the Custodian Bank's terms and conditions.

"Custodial Accounts" means the accounts established for a public agency to hold and invest public funds.

"Enrollment Form" means the form provided by the Treasurer to collect the required pertinent participant information prior to the deposit of any public funds in IPTIP.

"Fiscal Agent" means the Treasurer of the State of Illinois or his or her designees.

"Illinois Funds Agreement" means the participant agreement that sets forth the Treasurer's terms and conditions for participation in IPTIP.

"IPTIP" or "Illinois Funds" means the Illinois Public Treasurers' Investment Pool provided to public agencies to supplement and enhance investment opportunities otherwise available to managers of public funds or public agencies in the State.

"Participant" means a public agency that has been accepted by the Treasurer and enrolled into IPTIP.

"Pool" means combined public monies invested through IPTIP.

"Principal" means an individual who is authorized by the public agency or statute to execute contractual agreements on behalf of the public agency.

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"Public Agency" has the same meaning as in Section 17 of the Act. Questions regarding whether an entity qualifies as a component unit of a public agency shall be resolved by reference to Governmental Accounting Standards Board (GASB) pronouncements, including but not limited to GASB Statement 14: The Financial Reporting Entity.

"Public Funds" means *current operating funds, special funds, interest and sinking funds, and funds of any kind or character belonging to or in the custody of any public agency.* [30 ILCS 235/1]

"Signer" means the individual authorized by the principal, public agency, or statute to open, close or make changes to a custodial account.

"Trader" means the individuals authorized by the principal or signer to do any or all of the following: receive balance and transaction information on the custodial account, make changes to the custodial account, and direct investments.

"Treasurer" means the duly elected Treasurer of the State of Illinois or his or her designees.

SUBPART C: ADMINISTRATION

Section 740.300 Treasurer Responsibilities

The Treasurer is responsible for overseeing the management of IPTIP and will perform the following:

- a) review the eligibility of public agencies prior to enrollment;
- b) establish enrollment, quality control and maintenance requirements and processes;
- c) establish terms and conditions;
- d) establish customer service processes;
- e) determine the administrative fees paid from earnings of IPTIP in accordance with Section 330;

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- f) notify all participants of any increase in the administrative fee above 5 basis points, in accordance with Section 330;
- g) provide investment management services through the use of authorized securities to achieve investment returns for the participants;
- h) procure any necessary custodial, investment, or banking services administered through IPTIP;
- i) retain documents in compliance with State statutes, including the State Records Act [5 ILCS 160], the State Records Commission administrative rules (44 Ill. Adm. Code 4400) and the Treasurer's Application for Authority to Dispose of State Records (Application 98-02M), approved by the State Records Commission;
- j) provide administrative accounting; and
- k) other tasks necessary to administer IPTIP.

Section 740.310 Investment Policy

The Treasurer shall develop, publish, and implement an investment policy covering the management of funds in the Public Treasurers' Investment Pool. The policy shall be published each year as part of the audit of IPTIP by the Auditor General, which shall be distributed to all participants. The Treasurer shall notify all IPTIP participants in writing, and the Treasurer shall publish in at least one newspaper of general circulation in both Springfield and Chicago, any changes to a previously published investment policy at least 30 calendar days before implementing the policy. Any such investment policy adopted by the Treasurer shall be reviewed, and updated if necessary, within 90 days following the installation of a new Treasurer. [15 ILCS 505/17]

- a) The investment policy is a written statement describing the investment objectives, permissible investments, pool oversight and due diligence, and risk management practices and should be designed to:
 - 1) describe the Treasurer's investment objectives;
 - 2) state permissible investments;

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- 3) describe the process of evaluating pool performance compared to applicable performance benchmarks and standards;
 - 4) ensure that risks taken are prudent, properly managed and adequately compensated compared to applicable performance benchmarks and standards; and
 - 5) ensure that an effective risk management process is in place to monitor the risk levels of the pool.
- b) Permissible Investments – The pool's permissible investments may include, but are not limited to:
- 1) short-term investments (i.e., money market funds rated AAA); and
 - 2) fixed income investments (i.e., government agency bonds, corporate bonds, and supranational bonds).
- c) No participant may, directly or indirectly, cause the investment of any monies to an account to be made to any investment option other than one currently offered to all the participants.

Section 740.320 Custodian Bank Responsibilities

The custodian bank is responsible for the day-to-day management of IPTIP and will perform the following:

- a) Enroll public agencies that meet the participation requirements set forth in Section 740.400;
- b) Provide participant accounting services;
- c) Provide custodial services to participants;
- d) Provide customer service;
- e) Provide transfer agent and recordkeeping services;
- f) Provide training;

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- g) Retain copies of participant documents; and
- h) Provide sufficient reporting capabilities to the Treasurer and to participants.

Section 740.330 Fees

Administrative fees will be charged to the participants. Administrative fees cover expenses related to the pool, such as fund accounting, transfer agent services, customer service, marketing, and investment management. Administrative fees shall be publicly available and disclosed to public agencies prior to enrollment.

- a) The administrative fees will be determined by the Treasurer as set forth in this Section and paid from earnings of IPTIP. In determining the administrative fees, the Treasurer shall weigh the following factors:
 - 1) the IPTIP current and projected asset size; and
 - 2) the Treasurer's anticipated administrative and management expenses.
- b) The Treasurer shall notify all participants of any increase in the total administrative fees above 5 basis points. In no event shall the total administrative fees exceed 25 basis points (annualized), calculated on a daily basis. One basis point equals .01%.
- c) The Treasurer may reduce administrative fees to ensure a certain level of participant earnings.

Section 740.340 Allocation of Investment Earnings or Losses

Interest income will be computed daily, credited or paid monthly, and reinvested in the participant's account or distributed to the participant in a manner that equitably reflects the differing amounts of their respective investments in the pool and the differing periods of time for which those amounts were in the custody of the pool.

SUBPART D: PARTICIPATION AND ENROLLMENT IN IPTIP

Section 740.400 Participation

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In order to participate in IPTIP, a public agency shall submit an enrollment form and agree to the terms and conditions established by the Treasurer and its custodian bank.

Section 740.410 Enrollment

A public agency may enroll in IPTIP on documents prescribed by the Treasurer and the custodian bank. Electronic signatures are permitted when electronically submitting any documents, Illinois Funds agreements, or custodian bank agreements.

- a) The enrollment forms shall require public agencies to provide the following information:
 - 1) name of public agency;
 - 2) name and title of person who will be the principal;
 - 3) names and titles of authorized traders;
 - 4) names and titles of authorized signers;
 - 5) tax identification number;
 - 6) mailing and physical street address;
 - 7) email address;
 - 8) phone number;
 - 9) bank instructions; and
 - 10) any additional information needed to assist in clarifying when the enrollment form is unclear or insufficient.
- b) If applicable, public agencies shall sign a custodian bank agreement in which they agree to the terms and conditions of the custodian bank.
- c) Public agencies shall sign an Illinois Funds agreement in which they agree to the terms and conditions of the Treasurer.

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Section 740.420 Termination

The Treasurer reserves the right to freeze and/or terminate the participant's IPTIP services for failure to comply with the terms and conditions of the custodian bank as set forth in the custodian bank agreement or the Treasurer as set forth in the Illinois Funds agreement (see Section 744.410(b) and (c)). Prior to freezing or terminating any services, the Treasurer will provide a minimum of 30 days' notice of the intent to freeze or terminate. The notice will identify the grounds for freezing or terminating. If satisfactory remedial action is not taken by the participant within the 30 day period, the Treasurer will freeze or terminate the services, depending upon the type of notice given. Notwithstanding anything to the contrary in this Section, the Treasurer may freeze the participant's custodial accounts without notice if there is illegal, or suspected illegal, use of the custodial accounts; if there is use of the custodial accounts that is unauthorized by the participant, or suspected to be so unauthorized; if there is a request from law enforcement; or for any reason that the custodial accounts cannot be provided through no fault of the Treasurer's (e.g., problems with the custodian bank). Failure by the Treasurer to freeze or terminate services in one instance does not waive the Treasurer's right to freeze or terminate services in subsequent instances.

SUBPART E: CUSTODIAL ACCOUNT

Section 740.500 Custodial Account

Funding from investment activity will be distributed to the participant's custodial account at the custodian bank. The custodian bank must, at minimum, be authorized to do business in Illinois as an Illinois bank or a national bank with a presence in Illinois. In addition, the custodian bank must be a member of the Automated Clearing House network, participate in the Federal Reserve's wire network, and qualify as a depository for public funds pursuant to the Deposit of State Moneys Act [15 ILCS 520].

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

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

| | |
|-------------------------------|------------------------------------|
| Alternative Apportionment | Residency/Non-residency |
| Compensation Paid in Illinois | Sales Factor – Intangible Property |
| Historic Preservation | |

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's web site at www.tax.illinois.gov/.

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

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

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

Rachel Neal
Legal Services Office
101 West Jefferson Street
Springfield IL 62794
217/782-2844

2018 ANNUAL INCOME TAX SUNSHINE INDEX

ALTERNATIVE APPORTIONMENT

- IT 18-0002-PLR 05/03/2018 Occasional sale rule not applicable to sale in the regular course of business. (This is a PLR.)
- IT 18-0003-GIL 10/23/2018 Alternative Apportionment not allowed unless Taxpayer shows sales factor does not fairly reflect market for goods or services. (This is a PLR).

COMPENSATION PAID IN ILLINOIS

- IT 18-0002-GIL 09/17/2018 Place where service is directed or controlled. (This is a GIL)

HISTORIC PRESERVATION

- IT 18-0001-PLR 01/29/2018 River Edge Redevelopment Zone credit may not be transferred. (This is a PLR).

RESIDENCY/NONRESIDENCY

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

IT 18-0001-GIL 09/09/2018 Department will not issue rulings determining residency.
(This is a GIL).

SALES FACTOR – INTANGIBLE PROPERTY

IT 18-0003-PLR 11/29/2018 Taxpayer Originating loans to Customers in ordinary
course of business is a dealer. (This is a PLR).

IT 18-0004-PLR 11/29/2018 Taxpayer Originating loans to Customers in ordinary
course of business is a dealer. (This is a PLR).

IT 18-0005-PLR 11/29/2018 Taxpayer Originating loans to Customers in ordinary
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DEPARTMENT OF REVENUE

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217/782-2844

2018 FIRST AND SECOND QUARTER INCOME TAX SUNSHINE INDEX

ALTERNATIVE APPORTIONMENT

IT 18-0002-PLR 05/03/2018 Occasional sale rule not applicable to sale in the regular course of business. (This is a PLR).

HISTORIC PRESERVATION

IT 18-0001-PLR 01/29/2018 River Edge Redevelopment Zone credit may not be transferred. (This is a PLR).

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

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DEPARTMENT OF REVENUE

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Legal Services Office
101 West Jefferson Street
Springfield IL 62794
217/782-2844

2018 THIRD & FOURTH QUARTER INCOME TAX SUNSHINE INDEX

ALTERNATIVE APPORTIONMENT

IT 18-0003-GIL 10/23/2018 Alternative Apportionment not allowed unless Taxpayer shows sales factor does not fairly reflect market for goods or services. (This is a GIL).

COMPENSATION PAID IN ILLINOIS

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RESIDENCY/NONRESIDENCY

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DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

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DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

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| Agents | Farm Machinery & Equipment |
| Automobile Renting Tax | Food, Drug, & Medical Appliances |
| Cigarette Tax Act | Gross Receipts |
| Claims for Credit | Hotel Operators' Tax |
| Computer Software | Liquor Tax |
| Construction Contractors | Manufacturing Machinery & Equipment |
| Delivery Charges | Miscellaneous |
| Enterprise Zones | Motor Vehicles |
| Exempt Organizations | Nexus |
| Rental Purchase Agreement Tax | |
| Sales at Retail | |

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Service Occupation Tax
Telecommunication Excise Tax

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Legal Services Office
101 West Jefferson Street
Springfield IL 62794
217/782-2844

2018 THIRD & FOURTH QUARTER SALES & MISCELLANEOUS TAX
SUNSHINE INDEX

AGENTS

ST 18-0011-PLR 09/28/2018 An auctioneer acting on behalf of an unknown or undisclosed principal is responsible for Retailers' Occupation Tax on the gross receipts from the sale. However, if the auctioneer is acting on behalf of a known or disclosed principal, the sale of tangible personal property is taxable to the principal and not the auctioneer if the principal is a retailer of the tangible personal property being sold at the auction. See 86 Ill. Adm. Code 130.1915. (This is a PLR).

AUTOMOBILE RENTING TAX

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 18-0013-PLR 12/27/2018 Persons who are engaged in the business of renting automobiles in Illinois under rental terms of one year or less are subject to the Automobile Renting Occupation and Use Tax set forth at 35 ILCS 155/1 et seq. See 86 Ill. Adm. Code 180.101. (This is a PLR.)

CIGARETTE TAX ACT

ST 18-0028-GIL 11/19/2018 This letter addresses the sale of unstamped cigarettes to out-of-State distributors. See 86 Ill. Adm. Code 440.170. (This is a GIL.)

ST 18-0029-GIL 11/19/2018 This letter discusses the licensing of cross-docking services. See 35 ILCS 130/. (This is a GIL.)

CLAIMS FOR CREDIT

ST 18-0039-GIL 12/06/2018 If a taxpayer pays an amount of tax under the Retailers' Occupation Tax that is not due, either as a result of a mistake of fact or an error of law, the taxpayer may file a claim for credit with the Department. No credit shall be given the taxpayer unless the taxpayer shows that he or she has borne the burden of the tax or has unconditionally repaid the amount of the tax to the purchaser from whom it was collected. See 86 Ill. Adm. Code 130.1501. (This is a GIL).

COMPUTER SOFTWARE

ST 18-0010-PLR 09/26/2018 This letter discusses the requirement in Section 130.1935(a)(1) regarding a written "signed" agreement. See 86 Ill. Adm. Code 130.1945(a)(1). (This is a PLR.)

ST 18-0027-GIL 11/19/2018 This letter references the Department's administrative rules on computer software and maintenance agreements. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

CONSTRUCTION CONTRACTORS

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 18-0034-GIL 11/30/2018 Persons who permanently affix tangible personal property to real estate act as construction contractors and incur Use Tax liability on their cost price of tangible personal property they physically incorporate into realty. 86 Ill. Adm. Code 130.1940. (This is a GIL.)
- ST 18-0035-GIL 12/05/2018 Persons who sell signs may incur a Retailers' Occupation Tax, Service Occupation Tax or Use Tax liability, depending upon the circumstances of the particular sale. See 86 Ill. Adm. Code 130.2155 (Tax Liability of Sign Vendors); 86 Ill. Adm. Code 140.101 (Basis and Rate of the Service Occupation Tax); 86 Ill. Adm. Code 130.1940 (Construction Contractors and Real Estate Developers) and 86 Ill. Adm. Code 130.2075 (Sales To Construction Contractors, Real Estate Developers and Speculative Builders). (This is a GIL.)

DELIVERY CHARGES

- ST 18-0044-GIL 12/12/2018 This letter discusses transportation and delivery charges. See 86 Ill. Adm. Code 130.415. (This is a GIL.)

ENTERPRISE ZONES

- ST 18-0032-GIL 11/29/2018 Under the Enterprise Zone building materials exemption, a deduction from Illinois Retailers' Occupation Tax liability exists for gross receipts from retail sales of materials that will be incorporated, by remodeling, rehabilitation, or new construction, into real estate located in an enterprise zone established by a county or municipality under the Illinois Enterprise Zone Act. (See 35 ILCS 120/5k and 86 Ill. Adm. Code 130.1951(e).) (This is a GIL.)

EXEMPT ORGANIZATIONS

- ST 18-0022-GIL 09/13/2018 Exclusively religious, educational, or charitable organizations that have been given E-numbers by the Department are allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2005. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

FARM MACHINERY & EQUIPMENT

- ST 18-0040-GIL 12/06/2018 The sale of certain types of tangible personal property used in production agriculture is not subject to Illinois Retailers' Occupation Tax and Use Tax. See 35 ILCS 120/2-5(2) and 86 Ill. Adm. Code 130.305. (This is a GIL.)
- ST 18-0041-GIL 12/06/2018 The sale of certain types of tangible personal property used in production agriculture is not subject to Illinois Retailers' Occupation Tax and Use Tax. See 35 ILCS 120/2-5(2) and 86 Ill. Adm. Code 130.305. (This is a GIL.)
- ST 18-0043-GIL 12/06/2018 An aircraft used primarily in production agriculture may qualify for the farm machinery and equipment exemption. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

FOOD, DRUGS, & MEDICAL APPLIANCES

- ST 18-0030-GIL 11/21/2018 Items such as vitamins or dietary supplements are considered foods and may qualify for the low State rate of tax. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

GROSS RECEIPTS

- ST 18-0008-PLR 08/16/2018 If a retailer receives a reimbursement or rebate for a discount given to a purchaser on a sale, the amount of that reimbursement or rebate is considered part of the gross receipts received by the seller and is subject to Retailers' Occupation Tax. An incentive payment to a retailer that is not related to an individual sale is not considered part of gross receipts. *Chet's Vending Service Inc. v. Department of Revenue*, 71 Ill. 2d 38 (1978). See 86 Ill. Adm. Code 130.2125. (This is a PLR.)

HOTEL OPERATORS' TAX

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 18-0009-PLR 08/20/2018 Gross receipts from the rentals of rooms to "permanent residents" are not subject to Hotel Operators' Occupation Tax liability. A "permanent resident" is any person who has occupied or has the right to occupy any room or rooms in a hotel for at least 30 consecutive days. See 86 Ill. Adm. Code 480.101. (This is a PLR.)

LIQUOR TAX

ST 18-0007-PLR 07/12/2018 This letter discusses the applicability of the Uniformity Clause to the tax imposed by Article 8 of the Liquor Control Act (235 ILCS 5/8-1). See *Federated Distributors, Inc. v. Johnson*, 125 Ill.2d 1, 125 Ill. Dec. 343, 530 N.E.2d 501 (1988). NOTE: This letter is superseded by ST 18-0012-PLR. (This is a PLR)

ST 18-0012-PLR 09/29/2018 This letter discusses the taxability of flavored malt beverage under Article 8 of the Liquor Control Act. (235 ILCS 5/8-1) NOTE: This letter supersedes ST 18-0007-PLR. (This is a PLR.)

MANUFACTURING MACHINERY & EQUIPMENT

ST 18-0006-PLR 07/11/2018 Machinery and equipment used in a recycling processing facility to produce recycled material for wholesale or retail sale qualifies for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330. (This is a PLR.)

MISCELLANEOUS

ST 18-0019-GIL 09/10/2018 This letter responds to an annual survey. (This is a GIL.)

ST 18-0023-GIL 09/13/2018 Manufacturers, importers or wholesalers can enter into an "agency agreement" with the Department, whereby they register, file returns and remit Retailers' Occupation Tax on behalf of their local distributors. See 86 Ill. Adm. Code 130.550. (This is a GIL.)

ST 18-0026-GIL 11/21/2018 The exemption for materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft sunset on December 31, 2014 by operation of law pursuant to the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act [35 ILCS 2-70]. See 86 Ill. Adm. Code 130.120(rr). (This is a GIL.)

ST 18-0038-GIL 12/05/2018 The Department of Revenue has no authority to abate taxes that are required to have been collected and remitted. It can, however, provide relief from penalties (late pay or late file penalties, for instance), based upon reasonable cause grounds. 86 Ill. Adm. Code 700.300. (This is a GIL.)

MOTOR VEHICLES

ST 18-0031-GIL 11/09/2018 This letter responds to a survey concerning taxation of vehicles. (This is a GIL.)

NEXUS

ST 18-0042-GIL 12/06/2018 This letter responds to a question regarding nexus. See *Quill Corp. v. North Dakota*, 112 S. Ct. 1904 (1992). (This is a GIL.)

RENTAL PURCHASE AGREEMENT TAX

ST 18-0020-GIL 09/13/2018 In general, a rental agreement with a rental term that consists of consecutive 90-day periods, but with rental payments that are due every other week, does not meet the statutory definition of "rental purchase agreement" and is therefore not subject to the Rental Purchase Agreement Occupation and Use Tax. See 35 ILCS 180/5. (This is a GIL.)

ST 18-0021-GIL 09/13/2018 A "rental purchase agreement" is an agreement for the use of merchandise by a consumer for personal, family, or household purposes for an initial period of 4 months or less that is automatically renewable with each payment after the initial period and that permits the consumer to become the owner of the merchandise. See 35 ILCS 180/5. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

SALE AT RETAIL

ST 18-0025-GIL 09/13/2018 Sales of intangible personal property are not taxable under the Retailers' Occupation Tax Act. 86 Ill. Adm. Code 130.120. (This is a GIL.)

SERVICE OCCUPATION TAX

ST 18-0018-GIL 07/13/2018 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based on the tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140. (This is a GIL.)

ST 18-0036-GIL 12/05/2018 This letter describes a serviceman's liability under the Service Occupation Tax Act. See 86 Ill. Adm. 140.145. (This is a GIL.)

ST 18-0024-GIL 09/13/2018 Under the Service Occupation Tax Act, businesses providing services (i.e., servicemen) are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

TELECOMMUNICATIONS EXCISE TAX

ST 18-0033-GIL 11/28/2018 Fire alarm services provided by retailers that include the reselling of telephone services are subject to the Telecommunications Excise Tax Act. See 35 ILCS 630/3. (This is a GIL.)

ST 18-0037-GIL 12/05/2018 This letter discusses audio conferencing services. See 35 ILCS 630. (This is a GIL.)

DEPARTMENT OF REVENUE

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| Claims for Credit | Hotel Operators' Tax |
| Coal Mining Equipment | Liquor Tax |
| Computer Software | Local Taxes |
| Construction Contractors | Manufacturing Machinery & |
| Delivery Charges | Equipment |
| Enterprise Zones | Miscellaneous |
| Exempt Organizations | Motor Vehicles |
| Nexus | Service Occupation Tax |

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Prepaid Sales Tax
Rental Purchase Agreement
Sale at Retail
Sale of Service

Telecommunications Excise Tax
Watercraft Use Tax

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2018 ANNUAL SALES & MISCELLANEOUS TAX SUNSHINE INDEX

AGENTS

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AUTOMOBILE RENTING TAX

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 18-0013-PLR 12/27/2018 Persons who are engaged in the business of renting automobiles in Illinois under rental terms of one year or less are subject to the Automobile Renting Occupation and Use Tax set forth at 35 ILCS 155/1 et seq. See 86 Ill. Adm. Code 180.101. (This is a PLR.)

CIGARETTE TAX

ST 18-0001-PLR 01/31/2018 This letter discusses sales by secondary distributors. 35 ILCS 130/2c. (This is a PLR.)

ST 18-0028-GIL 11/19/2018 This letter addresses the sale of unstamped cigarettes to out-of-State distributors. See 86 Ill. Adm. Code 440.170. (This is a GIL.)

ST 18-0029-GIL 11/19/2018 This letter discusses the licensing of cross-docking services. See 35 ILCS 130/. (This is a GIL.)

CLAIMS FOR CREDIT

ST 18-0039-GIL 12/06/2018 If a taxpayer pays an amount of tax under the Retailers' Occupation Tax that is not due, either as a result of a mistake of fact or an error of law, the taxpayer may file a claim for credit with the Department. No credit shall be given the taxpayer unless the taxpayer shows that he or she has borne the burden of the tax or has unconditionally repaid the amount of the tax to the purchaser from whom it was collected. See 86 Ill. Adm. Code 130.1501. (This is a GIL).

COAL MINING EQUIPMENT

ST 18-0011-GIL 04/03/2018 The Retailers' Occupation Tax Act does not apply to sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment. The exemption also applies to individual replacement parts for such equipment. See 86 Ill. Adm. Code 130.350. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

COMPUTER SOFTWARE

- ST 18-0003-PLR 02/08/2018 The Department will look at the order form and any documents incorporated by reference into the order form to determine if the requirements of Section 130.1945(a)(1) have been met. See 86 Ill. Adm. Code 130.1945(a)(1). (This is a PLR.)
- ST 18-0010-PLR 09/26/2018 This letter discusses the requirement in Section 130.1935(a)(1) regarding a written "signed" agreement. See 86 Ill. Adm. Code 130.1945(a)(1). (This is a PLR.)
- ST 18-0027-GIL 11/19/2018 This letter references the Department's administrative rules on computer software and maintenance agreements. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

CONSTRUCTION CONTRACTORS

- ST 18-0006-GIL 03/27/2018 When a construction contractor permanently affixes tangible personal property to real property, the contractor is deemed the end user of that tangible personal property. As the end user, the contractor incurs Use Tax on the cost price of that tangible personal property. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)
- ST 18-0034-GIL 11/30/2018 Persons who permanently affix tangible personal property to real estate act as construction contractors and incur Use Tax liability on their cost price of tangible personal property they physically incorporate into realty. 86 Ill. Adm. Code 130.1940. (This is a GIL.)
- ST 18-0035-GIL 12/05/2018 Persons who sell signs may incur a Retailers' Occupation Tax, Service Occupation Tax or Use Tax liability, depending upon the circumstances of the particular sale. See 86 Ill. Adm. Code 130.2155 (Tax Liability of Sign Vendors); 86 Ill. Adm. Code 140.101 (Basis and Rate of the Service Occupation Tax); 86 Ill. Adm. Code 130.1940 (Construction Contractors and Real Estate Developers) and 86 Ill. Adm. Code 130.2075 (Sales To Construction Contractors, Real Estate Developers and Speculative Builders). (This is a GIL.)

DEPARTMENT OF REVENUE

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DELIVERY CHARGES

ST 18-0044-GIL 12/12/2018 This letter discusses transportation and delivery charges. See 86 Ill. Adm. Code 130.415. (This is a GIL.)

ENTERPRISE ZONES

ST 18-0032-GIL 11/29/2018 Under the Enterprise Zone building materials exemption, a deduction from Illinois Retailers' Occupation Tax liability exists for gross receipts from retail sales of materials that will be incorporated, by remodeling, rehabilitation, or new construction, into real estate located in an enterprise zone established by a county or municipality under the Illinois Enterprise Zone Act. (See 35 ILCS 120/5k and 86 Ill. Adm. Code 130.1951(e).) (This is a GIL.)

EXEMPT ORGANIZATIONS

ST 18-0022-GIL 09/13/2018 Exclusively religious, educational, or charitable organizations that have been given E-numbers by the Department are allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2005. (This is a GIL.)

FARM MACHINERY & EQUIPMENT

ST 18-0040-GIL 12/06/2018 The sale of certain types of tangible personal property used in production agriculture is not subject to Illinois Retailers' Occupation Tax and Use Tax. See 35 ILCS 120/2-5(2) and 86 Ill. Adm. Code 130.305. (This is a GIL.)

ST 18-0041-GIL 12/06/2018 The sale of certain types of tangible personal property used in production agriculture is not subject to Illinois Retailers' Occupation Tax and Use Tax. See 35 ILCS 120/2-5(2) and 86 Ill. Adm. Code 130.305. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 18-0043-GIL 12/06/2018 An aircraft used primarily in production agriculture may qualify for the farm machinery and equipment exemption. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

FOOD

ST 18-0002-GIL 01/25/2018 This letter discusses the applicable sales tax rates for food and soft drinks. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

FOOD, DRUGS & MEDICAL APPLIANCES

ST 18-0030-GIL 11/21/2018 Items such as vitamins or dietary supplements are considered foods and may qualify for the low State rate of tax. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

GROSS RECEIPTS

ST 18-0001-GIL 01/25/2018 Costs of doing business are an element of a retailer's gross receipts subject to tax even if separately stated on the bill to the customer. See 86 Ill. Adm. Code 130.410. (This is a GIL.)

ST 18-0003-GIL 02/09/2018 The sale of cable and satellite programming services to subscribers is not a sale of tangible personal property and is not subject to the Retailers' Occupation Tax, Service Occupation Tax or Telecommunications Excise Tax. See 86 Ill. Adm. Code 130.101; 86 Ill. Adm. Code 140.101; 35 ILCS 630/3 and 630/4. (This is a GIL.)

ST 18-0008-PLR 08/16/2018 If a retailer receives a reimbursement or rebate for a discount given to a purchaser on a sale, the amount of that reimbursement or rebate is considered part of the gross receipts received by the seller and is subject to Retailers' Occupation Tax. An incentive payment to a retailer that is not related to an individual sale is not considered part of gross receipts. *Chet's Vending Service Inc. v. Department of Revenue*, 71 Ill. 2d 38 (1978). See 86 Ill. Adm. Code 130.2125. (This is a PLR.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

HOTEL OPERATORS' TAX

ST 18-00004-PLR 02/09/2018 This letter discusses the exemption provided in Section 3(d-5) of The Hotel Operators' Tax Act. See 35 ILCS 145/3. (This is a PLR.)

LIQUOR TAX

ST 18-0007-PLR 07/12/2018 This letter discusses the applicability of the Uniformity Clause to the tax imposed by Article 8 of the Liquor Control Act (235 ILCS 5/8-1). See *Federated Distributors, Inc. v. Johnson*, 125 Ill.2d 1, 125 Ill. Dec. 343, 530 N.E.2d 501 (1988). NOTE: This letter is superseded by ST 18-0012-PLR. (This is a PLR.)

ST 18-0012-PLR 09/29/2018 This letter discusses the taxability of flavored malt beverage under Article 8 of the Liquor Control Act. (235 ILCS 5/8-1) NOTE: This letter supersedes ST 18-0007-PLR. (This is a PLR.)

LOCAL TAXES

ST 18-0005-PLR 06/14/2018 The occupation of selling is comprised of the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price. Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. 86 Ill. Adm. Code 270.115. (This is a PLR.)

MANUFACTURING MACHINERY & EQUIPMENT

ST 18-0009-GIL 03/30/2018 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

DEPARTMENT OF REVENUE

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ST 18-0006-PLR 07/11/2018 Machinery and equipment used in a recycling processing facility to produce recycled material for wholesale or retail sale qualifies for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330. (This is a PLR.)

MISCELLANEOUS

ST 18-0017-GIL 05/07/2018 This letter discusses the application of Metropolitan Pier and Exposition Authority Retailers' Occupation Tax to sales of food, alcoholic beverages, and soft drinks sold on boats and other watercraft. See 70 ILCS 210/13. (This is a GIL.)

ST 18-0019-GIL 09/10/2018 This letter responds to an annual survey. (This is a GIL.)

ST 18-0023-GIL 09/13/2018 Manufacturers, importers or wholesalers can enter into an "agency agreement" with the Department, whereby they register, file returns and remit Retailers' Occupation Tax on behalf of their local distributors. See 86 Ill. Adm. Code 130.550. (This is a GIL.)

ST 18-0038-GIL 12/05/2018 The Department of Revenue has no authority to abate taxes that are required to have been collected and remitted. It can, however, provide relief from penalties (late pay or late file penalties, for instance), based upon reasonable cause grounds. 86 Ill. Adm. Code 700.300. (This is a GIL.)

MOTOR VEHICLES

ST 18-0004-GIL 02/09/2018 The Department will not approve the accuracy of private legal publications. (This is a GIL.)

ST 18-0008-GIL 03/27/2018 This letter responds to a survey concerning taxation of vehicles. (This is a GIL.)

ST 18-0031-GIL 11/09/2018 This letter responds to a survey concerning taxation of vehicles. (This is a GIL.)

DEPARTMENT OF REVENUE

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NEXUS

- ST 18-0005-GIL 02/09/2018 This letter responds to a questionnaire regarding nexus. See *Quill Corp. v. North Dakota*, 112 S. Ct. 1904 (1992). (This is a GIL.)
- ST 18-0015-GIL 04/13/2018 This letter addresses nexus, construction contractors, and sales for resale. See *Quill Corp. v. North Dakota*, 112 S.Ct. 1904 (1992); 86 Ill. Adm. 130.1940; 86 Ill. Adm. Code 130.2075; and 86 Ill. Adm. 130.1405. (This is a GIL)
- ST 18-0016-GIL 05/15/2018 This letter responds to a question regarding nexus. See *Quill Corp. v. North Dakota*, 112 S. Ct. 1904 (1992). (This is a GIL.)
- ST 18-0042-GIL 12/06/2018 This letter responds to a question regarding nexus. See *Quill Corp. v. North Dakota*, 112 S. Ct. 1904 (1992). (This is a GIL.)

PREPAID SALES TAX

- ST 18-0013-GIL 04/05/2018 This letter describes the manner in which prepaid sales tax on motor fuel is collected and remitted. See 86 Ill. Adm. Code 130.551. (This is a GIL.)
- ST 18-0014-GIL 04/09/2018 This letter describes the manner in which prepaid sales tax on motor fuel is collected and remitted. See 35 ILCS 120/2d. (This is a GIL.)

RENTAL PURCHASE AGREEMENT TAX

- ST 18-0012-GIL 04/05/2018 In general, items that are subject to the State 1% sales tax rate are not intended to be covered by the 6.25% Rental Purchase Agreement Occupation and Use Tax. See 35 ILCS 180/1 et seq. (This is a GIL.)
- ST 18-0020-GIL 09/13/2018 In general, a rental agreement with a rental term that consists of consecutive 90-day periods, but with rental payments that are due every other week, does not meet the statutory definition of "rental

DEPARTMENT OF REVENUE

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purchase agreement" and is therefore not subject to the Rental Purchase Agreement Occupation and Use Tax. See 35 ILCS 180/5. (This is a GIL.)

ST 18-0021-GIL 09/13/2018 A "rental purchase agreement" is an agreement for the use of merchandise by a consumer for personal, family, or household purposes for an initial period of 4 months or less that is automatically renewable with each payment after the initial period and that permits the consumer to become the owner of the merchandise. See 35 ILCS 180/5. (This is a GIL.)

SALE AT RETAIL

ST 18-0025-GIL 09/13/2018 Sales of intangible personal property are not taxable under the Retailers' Occupation Tax Act. 86 Ill. Adm. Code 130.120. (This is a GIL.)

SALE OF SERVICE

ST 18-0007-GIL 03/27/2018 This letter is a response to a survey regarding drop shipments. For information regarding drop shipments, see the Department's regulation entitled "Drop Shipments," found at 86 Ill. Adm. Code 130.225. (This is a GIL.)

SERVICE OCCUPATION TAX

ST 18-0010-GIL 03/30/2018 This letter describes how a subservice transaction is treated under the Service Occupation Tax Act. See 86 Ill. Adm. 140.145. This is a GIL.

ST 18-0018-GIL 07/13/2018 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based on the tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140. (This is a GIL.)

ST 18-0036-GIL 12/05/2018 This letter describes a serviceman's liability under the Service Occupation Tax Act. See 86 Ill. Adm. 140.145. (This is a GIL.)

DEPARTMENT OF REVENUE

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ST 18-0024-GIL 09/13/2018 Under the Service Occupation Tax Act, businesses providing services (i.e., servicemen) are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

TELECOMMUNICATIONS EXCISE TAX

ST 18-0033-GIL 11/28/2018 Fire alarm services provided by retailers that include the reselling of telephone services are subject to the Telecommunications Excise Tax Act. See 35 ILCS 630/3. (This is a GIL.)

ST 18-0037-GIL 12/05/2018 This letter discusses audio conferencing services. See 35 ILCS 630. (This is a GIL.)

WATERCRAFT USE TAX

ST 18-0002-PLR 01/31/2018 Watercraft whose change in ownership is due to the merger of corporations into a limited liability company is not subject to Watercraft Use Tax. See 86 Ill. Adm. Code 153.105 and 805 ILCS 5/11.39 and 11.50. (This is a PLR.)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of January 29, 2019 through February 4, 2019. The following rulemakings are scheduled for the February 19, 2019 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> |
|--------------------------------------|--|--------------------------------------|-------------------------|
| 3/14/19 | <u>Department of Children and Family Services,</u> Placement and Visitation Services (89 Ill. Adm. Code 301) | 5/4/18 42 Ill. Reg. 7710 | 2/19/19 |
| 3/14/19 | <u>Department of Public Health, Emergency</u> Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code (77 Ill. Adm. Code 515) | 11/26/18 42 Ill. Reg. 20621 | 2/19/19 |
| 3/17/19 | <u>Department of Natural Resources, Sport Fishing</u> Regulations for the Waters of Illinois (17 Ill. Adm. Code 810) | 11/2/18 42 Ill. Reg. 19373 | 2/19/19 |
| 3/17/19 | <u>Department of Natural Resources, Commercial</u> Fishing and Musseling in Certain Waters of the State (17 Ill. Adm. Code 830) | 11/2/18 42 Ill. Reg. 19498 | 2/19/19 |

EXECUTIVE ORDER

2019-8
**EXECUTIVE ORDER STRENGTHENING THE STATE'S COMMITMENT TO
ENDING THE HIV EPIDEMIC**

WHEREAS, the State of Illinois should take action to reduce new HIV cases, end the HIV epidemic, and improve health outcomes for people living with HIV; and

WHEREAS, there are nearly 40,000 people living with HIV in Illinois, and 1,375 people were newly diagnosed in 2017; and

WHEREAS, over 20,000 Illinoisans living with HIV received health insurance through Medicaid in FY17, making Medicaid the largest payer for HIV care in the state and a vital part of the effort to end the HIV epidemic; and

WHEREAS, there are deep and persistent health disparities for people living with HIV: specifically, gay, bisexual and other men who have sex with men represent over half of people living with HIV; 47% of people living with HIV are Black and 18% are Latinx; among heterosexual women, Black women account for more than 73% of new HIV cases and new infections; young people ages 20-39 represent 65% of new HIV diagnoses in Chicago; and nationally, a quarter of transgender women are living with HIV, and more than half of African American transgender people are living with HIV; and

WHEREAS, Public Act 99-0054 amended the Illinois AIDS Confidentiality Act, 410 ILCS 305/1, et seq., as of Jan 1, 2016, to establish opt-out HIV testing as the standard of care, consistent with the Centers for Disease Control and Prevention recommendations for routine HIV testing; and

WHEREAS, the scientific consensus is that people with HIV whose viral load is undetectable cannot transmit HIV sexually, making HIV treatment a powerful form of HIV prevention; and

WHEREAS, during the State's budget impasse, there was a year when nothing was spent on the African American HIV/AIDS Response Act, causing efforts to prevent and treat HIV to suffer greatly at a time when the Black community is facing a public health emergency; and

WHEREAS, there is a once-daily medication that is 99% effective at preventing HIV when taken consistently and correctly, called pre-exposure prophylaxis (PrEP), which would not only save the State the costs of more expensive treatment in the future, but more importantly, save lives;

THEREFORE, I, JB Pritzker, Governor of Illinois, by virtue of the executive authority vested in me by Article V of the Constitution of the State of Illinois, hereby order as follows:

EXECUTIVE ORDER

I. Take Action to End the HIV Epidemic and Reduce Health Disparities

The Office of the Governor, the Department of Public Health, and the Department of Healthcare and Family Services commit to working with stakeholders to ensure (a) the State is investing in agencies, programs, and services that work to end the HIV epidemic, including funding for increased HIV testing and prevention, PrEP, the African American HIV/AIDS Response Act, and other public health initiatives; and (b) Illinoisans living with HIV, along with their healthcare providers, are supported in achieving undetectable viral loads.

II. Monitor Viral Load Metrics

The Department of Public Health and the Department of Healthcare and Family Services, in conjunction with the contracted Medicaid Managed Care Organizations (MMCOs), shall, within 90 days of the effective date of this Executive Order, deliver a report to the Governor containing a plan for the MMCOs to share data with the State in accordance with all laws and regulations governing health privacy, including a viral load metric, so that the State can monitor progress to ensure Illinoisans living with HIV have access to the healthcare they need to keep their viral loads at zero.

III. Savings Clause

Nothing in this Executive Order shall be construed to contravene any federal or State law or regulation. Nothing in this Executive Order shall affect or alter the existing statutory powers of any State agency or be construed as a reassignment or reorganization of any State agency.

IV. Prior Executive Orders

This Executive Order supersedes any contrary provision of any other prior Executive Order.

V. Severability Clause

If any part of this Executive Order is found to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

VI. Effective Date

This Executive Order shall take effect immediately upon its filing with the Secretary of State.

EXECUTIVE ORDER

Issued by Governor: February 1, 2019

Filed with Secretary of State: February 1, 2019

PROCLAMATION

2019-2**Winter Disaster Proclamation**

***WHEREAS**, the State of Illinois has had several winter storms causing large snow accumulations and frigid temperatures in January; and,*

***WHEREAS**, according to the National Weather Service, Illinois is expected to continue to have severe winter weather including extreme cold nearing historic levels. Current forecasts indicate wind chill temperatures of 15 to 55 below zero across the state, with the coldest readings in northern Illinois; and,*

***WHEREAS**, brisk northwest winds with the surge of arctic air will produce some areas of blowing and drifting snow in open areas, especially where snow showers develop over snowpack areas in northern Illinois; and,*

***WHEREAS**, there have been numerous school closings and major transportation disruptions including suspended and modified Amtrak service and modification of Chicago's Metra system schedule; and,*

***WHEREAS**, due to the snow, heavy gusty winds, and continued subzero temperatures, a widespread public health and safety threat exists; and,*

***WHEREAS**, based on reports received by the Illinois Emergency Management Agency, local resources and capabilities may be exhausted and State resources will be needed to respond to and recover from the effects of the severe winter weather; and,*

***WHEREAS**, these conditions provide legal justification under section 7 of the Illinois Emergency Management Act for the issuance of a proclamation of disaster;*

***THEREFORE**, in the interest of aiding the people of Illinois and the local governments responsible for ensuring public health and safety, I, JB Pritzker, Governor of the State of Illinois, hereby proclaim as follows:*

***SECTION 1:** Pursuant to the provisions of Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, I find that a disaster exists within the State of Illinois and declare all counties within the State of Illinois as disaster areas.*

***SECTION 2:** The Illinois Emergency Management Agency is directed to continue implementation of the State Emergency Operations Plan to coordinate State resources to support local governments in disaster response and recovery operations.*

PROCLAMATION

***SECTION 3:** This proclamation can facilitate a request for Federal disaster assistance if a complete and comprehensive assessment of damage indicates that effective recovery is beyond the capabilities of the State and affected local governments.*

***SECTION 4:** This proclamation shall be effective immediately and remain in effect for 30 days.*

Issued by the Governor January 29, 2019

Filed by the Secretary of State January 29, 2019

ILLINOIS ADMINISTRATIVE CODE
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