

2011

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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TABLE OF CONTENTS

December 2, 2011 Volume 35, Issue 49

PROPOSED RULES

HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF	
Practice in Administrative Hearings	
89 Ill. Adm. Code 104.....	19322
Medical Assistance Programs	
89 Ill. Adm. Code 120.....	19337
Veterans' Health Insurance Program	
89 Ill. Adm. Code 128.....	19352
Medical Payment	
89 Ill. Adm. Code 140.....	19368
Electronic Health Information Technology	
89 Ill. Adm. Code 150.....	19392
Child Support Services	
89 Ill. Adm. Code 160.....	19403
REVENUE, DEPARTMENT OF	
Electronic Filing of Returns or Other Documents	
86 Ill. Adm. Code 760.....	19452
TeleFile Program (Repealer)	
86 Ill. Adm. Code 770.....	19459
STATE BOARD OF EDUCATION	
Evaluation of Certified Employees under Articles 24A and 34 of the School Code	
23 Ill. Adm. Code 50.....	19467

ADOPTED RULES

FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF	
Medical Practice Act of 1987	
68 Ill. Adm. Code 1285.....	19500
Real Estate Appraiser Licensing	
68 Ill. Adm. Code 1455.....	19505
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF	
Reimbursement for Nursing Costs for Geriatric Facilities	
89 Ill. Adm. Code 147.....	19514
Long Term Care Reimbursement Changes	
89 Ill. Adm. Code 153.....	19524
HUMAN SERVICES, DEPARTMENT OF	
Individualized Plan for Employment (IPE)	
89 Ill. Adm. Code 572.....	19533
TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS	
The Administration and Operation of the Teachers' Retirement System	
80 Ill. Adm. Code 1650.....	19541

PEREMPTORY RULES

AGRICULTURE, DEPARTMENT OF	
Meat and Poultry Inspection Act	
8 Ill. Adm. Code 125.....	19553
SECOND NOTICES RECEIVED	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
Second Notices Received.....	19568

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 2011

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 20, 2010	January 3, 2011
2	December 27, 2010	January 7, 2011
3	January 3, 2011	January 14, 2011
4	January 10, 2011	January 21, 2011
5	January 18, 2011	January 28, 2011
6	January 24, 2011	February 4, 2011
7	January 31, 2011	February 14, 2011
8	February 7, 2011	February 18, 2011
9	February 15, 2011	February 25, 2011
10	February 22, 2011	March 4, 2011
11	February 28, 2011	March 11, 2011
12	March 7, 2011	March 18, 2011
13	March 14, 2011	March 25, 2011
14	March 21, 2011	April 1, 2011
15	March 28, 2011	April 8, 2011
16	April 4, 2011	April 15, 2011
17	April 11, 2011	April 22, 2011
18	April 18, 2011	April 29, 2011
19	April 25, 2011	May 6, 2011
20	May 2, 2011	May 13, 2011
21	May 9, 2011	May 20, 2011

22	May 16, 2011	May 27, 2011
23	May 23, 2011	June 3, 2011
24	May 31, 2011	June 10, 2011
25	June 6, 2011	June 17, 2011
26	June 13, 2011	June 24, 2011
27	June 20, 2011	July 1, 2011
28	June 27, 2011	July 8, 2011
29	July 5, 2011	July 15, 2011
30	July 11, 2011	July 22, 2011
31	July 18, 2011	July 29, 2011
32	July 25, 2011	August 5, 2011
33	August 1, 2011	August 12, 2011
34	August 8, 2011	August 19, 2011
35	August 15, 2011	August 26, 2011
36	August 22, 2011	September 2, 2011
37	August 29, 2011	September 9, 2011
38	September 6, 2011	September 16, 2011
39	September 12, 2011	September 23, 2011
40	September 19, 2011	September 30, 2011
41	September 26, 2011	October 7, 2011
42	October 3, 2011	October 14, 2011
43	October 11, 2011	October 21, 2011
44	October 17, 2011	October 28, 2011
45	October 24, 2011	November 4, 2011
46	October 31, 2011	November 14, 2011
47	November 7, 2011	November 18, 2011
48	November 14, 2011	November 28, 2011
49	November 21, 2011	December 2, 2011
50	November 28, 2011	December 9, 2011
51	December 5, 2011	December 16, 2011
52	December 12, 2011	December 27, 2011
53	December 19, 2011	December 30, 2011

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 17, 2011 to January 3, 2012.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Practice in Administrative Hearings
- 2) Code Citation: 89 Ill. Adm. Code 104
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
104.900	New Section
104.910	New Section
104.920	New Section
104.930	New Section
104.940	New Section
104.950	New Section
104.960	New Section
104.970	New Section
104.980	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and 305 ILCS 5/8A-2.5
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking in conjunction with rules filed under 89 Ill. Adm. Code 140, provides the procedural framework for the implementing amendments to 305 ILCS 5/8A-2.5. The statute allows HFS to seek to recover State and federal money that has improperly and erroneously paid benefits as a result of fraudulent action. Further, law requires that, prior to the recovery of any amount paid for benefits allegedly obtained by fraudulent means the recipient of such benefits shall be afforded the opportunity for a hearing. In addition, HFS hearings, enforcement of final administrative decisions, and collection of repayment and penalty amounts are outlined in this rulemaking.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

217/782-1233

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER a: GENERAL PROVISIONS

PART 104

PRACTICE IN ADMINISTRATIVE HEARINGS

SUBPART A: ASSISTANCE APPEALS

Section

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

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

SUBPART C: MEDICAL VENDOR AND ALTERNATE PAYEE HEARINGS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

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

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

SUBPART E: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

SUBPART F: INCORPORATION BY REFERENCE

Section	
104.800	Incorporation by Reference

[SUBPART G: UNAUTHORIZED USE OF MEDICAL ASSISTANCE](#)

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

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

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989; amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991; amended at 16 Ill. Reg. 12903, effective August 15, 1992; amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18834, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 1321, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15711, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 29, 1995; amended at 20 Ill. Reg. 5699, effective March 28, 1996; amended at 20 Ill. Reg. 14891, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 8671, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9306, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13648, effective October 1, 1997; amended at 21 Ill. Reg. 14977, effective November 7, 1997; emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2393, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11734, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 2418, effective January 27, 2000; amended at 25 Ill. Reg. 5351, effective April 1, 2001; amended at 26 Ill. Reg. 9836, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11022, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 12306, effective July 26, 2002; amended at 26 Ill. Reg. 17743, effective November 27, 2002; amended at 27 Ill. Reg. 5853, effective March 24, 2003; amended at 27 Ill. Reg. 13771, effective August 1, 2003; amended at 28 Ill. Reg. 2735, effective February 1, 2004; emergency amendment at 29 Ill. Reg. 2735, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10187, effective June 30, 2005; amended at 31 Ill. Reg. 2387, effective January 19, 2007; amended at 32 Ill. Reg. 16797, effective October 6, 2008; amended at 33 Ill. Reg. 6283, effective April 15, 2009; amended at 35 Ill. Reg. 2030, effective January 21, 2011; amended at 35 Ill. Reg. 12900, effective July 25, 2011; amended at 36 Ill. Reg. _____, effective _____.

SUBPART G: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

Section 104.900 Unauthorized Use of Medical Assistance

The Department may seek to recover any and all State and federal monies for which it has improperly and erroneously paid for unauthorized use of medical assistance benefits. The Department may also recover any and all civil penalties authorized by law.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 104.910 Definitions

As used in this Subpart and 89 Ill. Adm. Code 140.Subpart L:

- a) "Knowing" and "knowingly" mean that a person, with respect to information:
 - 1) has, or should have, actual knowledge of the information;
 - 2) acts in deliberate ignorance of the truth or falsity of the information; or
 - 3) acts in reckless disregard of the truth or falsity of the information, regardless of whether there is specific proof of intent to defraud.
- b) "Medical card" means a document, or any other tangible thing, that causes the Department to pay for essential medical services and supplies.
- c) "Person" means, in addition to natural persons, any firm, corporation, partnership, association, agency, institution or other legal organization.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 104.920 Applicability

This Subpart applies to administrative actions brought by the Department to recover State and federal monies improperly and erroneously paid to, or on behalf of, any person who knowingly:

- a) uses, acquires, possesses or transfers a medical card in any manner not authorized by law or by rules and regulations of the Department;
- b) aids, abets, incites, compels or coerces the use, acquisition, possession or transfer of a medical card in any manner not authorized by law or by rules and regulations of the Department;
- c) alters a medical card;
- d) uses, acquires, possesses or transfers an altered medical card;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- e) obtains unauthorized medical benefits with or without the use of a medical card; or
- f) causes to be presented to the Department a claim for unauthorized medical benefits.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 104.930 Notice of Intent to Recover Money

- a) Prior to the recovery of any amount paid for unauthorized medical benefits allegedly obtained, the recipient of the benefits shall be afforded an opportunity for a hearing after written notice of the Department's intent to recover money. This notice shall be served personally or by certified or registered mail or as otherwise provided by law upon the person, or his or her agent appointed to receive service, and shall contain:
 - 1) a statement of the time, place and nature of the hearing;
 - 2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - 3) a reference to the particular Sections of the substantive and procedural statutes and rules involved;
 - 4) except when a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or other reference number;
 - 5) a statement of the monetary value of the benefits at issue;
 - 6) a statement that, in addition to any other penalties provided by law, a civil penalty not to exceed \$2,000 may be imposed for each payment or benefit received;
 - 7) a statement providing that the Department's findings may be contested by petitioning the Department for an administrative hearing; and

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 8) the names and mailing addresses of the administrative law judge, all parties, and all other persons to whom the agency gives notice, unless otherwise confidential by law.
- b) The Department may recover interest on the amount paid for unauthorized medical benefits at the rate of 5% per annum. Interest will accrue for the period from when payment was made to the date when repayment was made to the Department. If the amount of overpayment subject to recovery of interest is paid to the Department prior to the issuance of a final administrative decision, interest will cease to accrue. If the Department determines that it will recover the interest, the Department shall, as part of its notice of intent to recover money, set forth:
- 1) a reference to the particular Sections of the substantive and procedural statutes and rules involved;
 - 2) a statement of the amount of State and federal monies paid that is subject to recovery of interest;
 - 3) a statement of the amount of interest accrued as of the date of the Department's notice; and
 - 4) a statement that the amount of interest may continue to accrue until such time as the amount subject to interest has been paid.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 104.940 Request for Hearing

- a) Any person may request a hearing before an administrative law judge to contest the Department's recovery action. All such requests must be received by the Department within 30 days after receipt of the Department's notice of intent to recover money.
- b) A request for a hearing must be in writing and must contain a brief statement of the basis upon which the Department's recovery action is being challenged.
- c) If a request for a hearing is not properly received, or is received but later withdrawn, the Department's decision and the grounds asserted in the

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

Department's notice of intent to recover money as the basis for that decision shall be a final and binding administrative determination.

- d) If a request for a hearing is properly received, the Department will schedule a hearing to take place within 30 days after the Department's receipt of the request for a hearing. The Department will notify the parties in writing of the date, time and place of the hearing.
- e) A request for a hearing may be withdrawn prior to the hearing. A withdrawal must be in writing and signed by the person seeking the withdrawal and/or his or her representative. **The hearing request may also be withdrawn** on the record during the hearing.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 104.950 Representation

- a) Any person may appear and be heard at a hearing requested pursuant to Sections 104.930(a)(7) and 104.940 through an attorney at law authorized to practice in the State of Illinois. An individual may also appear and be heard on his or her own behalf.
- b) Attorneys or other persons appearing in a representative capacity shall file a written notice of appearance identifying themselves by name, address, telephone number and party represented.
- c) All persons appearing in proceedings before the Department shall conform to the standards of conduct of attorneys before the courts of the State of Illinois. If a person does not conform to **those** standards, the Department may decline to permit **the** person to appear in any proceeding or **may** exclude **that** person.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 104.960 Conduct of Hearings

- a) A hearing requested pursuant to Sections 104.930(a)(7) and 104.940 shall be conducted by an attorney designated by the Director of the Department as an administrative law judge.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- b) The administrative law judge shall inquire fully into the matters at issue and shall receive testimony of witnesses and any other evidence relevant and material to the issues presented. The administrative law judge shall determine the order in which evidence is taken and the procedure at the hearing.
- c) The hearing shall be open to such persons as the administrative law judge deems necessary and proper for its orderly and efficient conduct.
- d) Any person and/or his or her representative shall have the opportunity to:
- 1) examine the documents and evidence to be presented at hearing;
 - 2) present evidence and witnesses on his or her behalf;
 - 3) refute testimony or other evidence; and
 - 4) cross-examine witnesses.
- e) All papers or documents filed in any proceeding must be served on the Chief Administrative Law Judge. One copy of any such papers or documents must be served on all other parties involved. Service must be personal or by deposit in the United States mail, properly addressed with postage prepaid.
- f) At any time before completion of the hearing, amendments may be allowed on just and reasonable terms to introduce any party who ought to have been joined, to dismiss any party, or to delete, modify or add allegations or defenses.
- g) Any request that a Department issue a subpoena on behalf of a party to a hearing may be made in writing to the designated administrative law judge or, if none has been designated, to the Chief Administrative Law Judge. Any subpoena shall be granted by the Department only upon:
- 1) a showing of relevancy and reasonable scope;
 - 2) a showing that, unless the subpoena is issued, the party will be unable to produce individuals or documents requested by the subpoena;
 - 3) a showing that the individuals or documents requested by the subpoena are not unduly repetitious; and

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 4) a showing that there are not other individuals or documents available to establish the matters that the subpoenaed individuals or documents are intended to establish.
- h) The burden of proof in hearings conducted pursuant to this Subpart shall be on the Department.
 - 1) In the case of any new matter introduced in connection with any affirmative defense, the burden of proof shall be on the party that alleges the new matter.
 - 2) The standard of proof with respect to all hearings conducted pursuant to this Subpart shall be a preponderance of the evidence.
- i) Official notice may be taken of:
 - 1) matters of which the Circuit Courts of this State may take judicial notice;
 - 2) matters in prior administrative hearings within and outside the agency relating to the person to whom this Subpart applies (including findings and evidence made in hearings initiated prior to December 30, 1977);
 - 3) generally recognized technical or scientific facts within the agency's specialized knowledge; and
 - 4) generally recognized technical, scientific or customary and ordinary procedures and operations, without the agency's specialized knowledge.
- j) Unless proven otherwise, computer generated documents, or photocopies of computer generated documents, prepared by the State, a State agency, or an agent of the State, shall be presumed to constitute an accurate reflection of State records.
- k) Any party to the hearing is entitled to one postponement or continuance of up to 30 calendar days. All other requests for postponement or continuance made prior to the hearing ordinarily will be granted only when the party, or the party's representative, shows that he or she has good cause for not appearing for that

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

hearing for reasons such as illness or similar circumstances beyond his or her reasonable control.

- l) If any person, without good cause, fails to appear at a hearing scheduled by the Department, or fails to proceed at a hearing, the Department's action or decision, and the grounds asserted as the basis for the action or decision, shall be a final and binding administrative determination.
- m) At the adjournment of the hearing, the record shall be closed and no further evidence may be submitted by any party unless, prior to the adjournment of the hearing, a request to leave the record open for a specific period for the submittal of additional evidence was made by a party and granted by the administrative law judge.
- n) A complete record of the hearing shall include:
 - 1) all pleadings (including all notices and responses to those pleadings, motions and rulings);
 - 2) documentary evidence received;
 - 3) offers of proof, objections and rulings thereon;
 - 4) proposed findings and exceptions;
 - 5) the recommended decision of the administrative law judge; and
 - 6) any ex parte communication prohibited by Section 10-60 of the Illinois Administrative Procedure Act [5 ILCS 100/10-60].
- o) A copy of the record will be reproduced at the request of any party. The requesting party will bear the cost of reproducing the record.
- p) Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 104.970 Recommended Decision

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- a) After the close of a hearing, the administrative law judge shall prepare a written recommended decision based upon the evidence adduced at the hearing or otherwise included in the record. The recommended decision shall contain findings of fact and recommendations. The recommended decision shall be issued within 60 days after the closing of the record at hearing.
- b) The recommended decision shall be submitted to the Director of the Department. The administrative law judge shall also send a copy of the recommended decision to all parties or their counsel.
- c) Any party may file written exceptions with the Director of the Department within 10 days after receipt of the recommended decision. Any adverse party may file with the Director a written response to any such exceptions within 5 days after receipt of the exceptions.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 104.980 Final Administrative Decision

- a) The Director of the Department shall make a final administrative decision in each case. This decision shall be in writing and contain findings of fact and a final decision. A copy of the final administrative decision shall be served on each party at his or her last address on file with the Department.
- b) The final administrative decision is reviewable only by a timely complaint filed under the Administrative Review Law [735 ILCS 5/Art. III]. No petition or motion for rehearing or reconsideration is allowed.
- c) The filing of a petition or a motion or any correspondence in the nature of a petition or motion, or any response by the Department to a petition, motion or correspondence will not delay the time for filing a complaint in administrative review.

(Source: Added at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Number: 120.335 Proposed Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: The rulemaking implements the Improving Access to Clinical Trials Act that was signed into law October 2010 and was effective April 3, 2011. Public Law 111-25 amended Section 1902(e) of the Social Security Act to mandate that up to \$2,000 of compensation received by an individual (in a calendar year) for participating in a clinical trial shall be excluded as income when determining eligibility for Medicaid benefits.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
120.70	Amendment	35 Ill. Reg. 11108; July 15, 2011
120.73	Amendment	35 Ill. Reg. 11108; July 15, 2011
120.75	Amendment	35 Ill. Reg. 11108; July 15, 2011
120.382	Amendment	35 Ill. Reg. 11108; July 15, 2011
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

217/782-1233

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120

MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section

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

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

120.65 Department of Mental Health and Developmental Disabilities (DMHDD)
Licensed Community – Integrated Living Arrangements (Repealed)

SUBPART D: MEDICARE PREMIUMS

Section

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

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section

120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

Section

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

SUBPART G: AID TO THE MEDICALLY INDIGENT

Section

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

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

Section	
120.308	Client Cooperation
120.309	Caretaker Relative
120.310	Citizenship
120.311	Residence
120.312	Age
120.313	Blind
120.314	Disabled
120.315	Relationship
120.316	Living Arrangements
120.317	Supplemental Payments

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

SUBPART I: SPECIAL PROGRAMS

Section

- 120.500 Health Benefits for Persons with Breast or Cervical Cancer
120.510 Health Benefits for Workers with Disabilities
120.520 SeniorCare (Repealed)
120.530 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
120.540 Illinois Healthy Women Program
120.550 Asylum Applicants and Torture Victims
- 120.TABLE A Value of a Life Estate and Remainder Interest
120.TABLE B Life Expectancy (Repealed)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; emergency rule suspended at 31 Ill. Reg. 16060, effective November 13, 2007; emergency rule repealed, effective May 10, 2008; peremptory amendment at 32 Ill. Reg. 7212, effective April 21, 2008; peremptory amendment suspended at 32 Ill. Reg. 8450, effective May 20, 2008; peremptory amendment repealed under Section 5-125 of the Illinois Administrative Procedure Act, effective November 16, 2008; amended at 32 Ill. Reg. 17428, effective November 1, 2008; peremptory amendment at 32 Ill. Reg. 18889, effective November 18, 2008; peremptory amendment suspended at 32 Ill. Reg. 18906, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 6551, effective April 28, 2009; peremptory amendment repealed by emergency

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

rulemaking at 33 Ill. Reg. 6712, effective April 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 1681, effective February 1, 2009; amended at 33 Ill. Reg. 2289, effective March 1, 2009; emergency amendment at 33 Ill. Reg. 5802, effective April 2, 2009, for a maximum of 150 days; emergency expired August 29, 2009; emergency amendment at 33 Ill. Reg. 10785, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 12703, effective September 7, 2009; amended at 33 Ill. Reg. 15707, effective November 2, 2009; amended at 33 Ill. Reg. 17070, effective December 2, 2009; amended at 34 Ill. Reg. 889, effective December 30, 2009; emergency rulemaking at 34 Ill. Reg. 13538, effective September 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 379, effective December 27, 2010; amended at 35 Ill. Reg. 979, effective January 1, 2011; amended at 35 Ill. Reg. 18645, effective January 1, 2012; amended at 36 Ill. Reg. _____, effective _____.

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

Section 120.335 Exempt Unearned Income

- a) MANG (AABD)
 - 1) For a MANG client (excluding long term care), the first \$25.00 of a client's earned or unearned income other than SSI income, or contributions from a spouse or other individual, is exempt from consideration in determining eligibility. A client is eligible for only one \$25.00 exemption regardless of the types of sources of earned or unearned income.
 - 2) If an individual in a long term care facility is paying the premium for SMIB coverage, the cost of the premium shall be disregarded.
 - 3) SSI income received by a long term care case who is in Section 1619 of the Social Security Act (42 USC 1382h) status (see 89 Ill. Adm. Code 140.8) in the month before admission to the facility is exempt for the first full two months of stay in the facility.
- b) The following unearned income shall be exempt from consideration in determining MANG eligibility:
 - 1) The value of the coupon allotment under the Food Stamp Act of 1977 (7 USC 2017(b));
 - 2) The value of the U.S. Department of Agriculture donated foods (surplus

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

commodities);

- 3) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4636);
- 4) Any per capita judgment funds paid under P.L. 92-254 to members of the Blackfeet Tribe of the Blackfeet Indian Reservation, Montana and the Gros Ventre Tribe of the Fort Belknap Reservation, Montana (25 USC 1264);
- 5) Any benefits received under Title III, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended (42 USC 3030e);
- 6) Any compensation provided to individual volunteers under the Retired Senior Volunteer Program and the Foster Grandparent Program and Older Americans Community Service Programs established under Title II of the Domestic Volunteer Service Act, as amended;
- 7) Income in an amount not greater than \$650 received by a beneficiary of life insurance which is expended on the funeral and burial of an insured recipient;
- 8) Income received under the provisions of Section 4(c) of the Illinois Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25]. This includes both the benefits commonly known as the circuit breaker and "additional grants";
- 9) Payments to volunteers under the 1973 Domestic Volunteer Service Act. (48 USC 5044(q)) These include:
 - A) Vista Volunteers;
 - B) Volunteers serving as senior health aids, senior companions, or foster grandparents;
 - C) Persons serving in the Service Corps of Retired Executives (SCORE) or the Active Corps of Executives (ACE); and
- 10) Unearned income such as need based payments, cash assistance,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

compensation in lieu of wages and allowances received through the Jobs Training Partnership Act.

- c) The following additional unearned income shall be exempt:
- 1) Social Security death benefit expended on a funeral and/or burial.
 - 2) The value of home produce which is used for personal consumption.
 - 3) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, (42 USC 1780(b)) and the special food service program for children under the National School Lunch Act, as amended (42 USC 1760).
 - 4) Any payments distributed per capita or held in trust for members of any Indian Tribe under P.L. 92-254, P.L. 93-134 or P.L. 94-450 (25 USC 1407).
 - 5) Tax exempt portions of payments made pursuant to the Alaska Native Claims Settlement Act (43 USC 1626).
 - 6) Experimental Housing Allowance Program payments made under Annual Contributions Contracts entered into prior to January 1, 1975 under Section 23 of the U.S. Housing Act of 1937, as amended (42 USC 1437(f)).
 - 7) The first \$50 of the total child support payments received each month on behalf of the assistance unit members. The amount of up to \$50 exempted is based on the total child support received in a month, regardless of the number of parents who contribute. Both court ordered and voluntary payments are considered when exempting the first \$50 of child support payments.
 - 8) A Title IV-E adoption assistance payment or foster care payments received from a state welfare agency of another state.
 - 9) Income from a trust fund established under the Self Sufficiency Trust Fund Program [20 ILCS 1705/21.1].

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 10) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201.
- 11) Payments made by the Illinois Department of Mental Health and Developmental Disabilities under the Family Assistance Program for Mentally Disabled Children [405 ILCS 80/3-1].
- 12) Payments received from a fund established by a State to aid victims of crime.
- 13) Federal Additional Compensation payments made by the Illinois Department of Employment Security under the American Recovery and Reinvestment Act of 2009 (Div. B, Title II, Sec. 2001 of P.L. 111-5).
- 14) Economic Recovery payments made by the Social Security Administration under the American Recovery and Reinvestment Act of 2009 (Div. B, Title II, Sec. 2201 of P.L. 111-5).
- 15) Tax Credit for Certain Government Retirees under the American Recovery and Reinvestment Act of 2009 (Div. B, Title II, Sec. 2202 of P.L. 111-5).
- 16) Payments to veterans who served in World War II in the Philippines and to spouses of those veterans under Section 1002 of the American Recovery and Reinvestment Act of 2009 (Div. A, Title X, Sec. 1002 of P.L. 111-5).
- 17) Payments or reimbursements for Premium Assistance for COBRA Continuous Coverage under the American Recovery and Reinvestment Act of 2009 (Div. B, Title III, Sec. 3001 of P.L. 111-5).
- 18) The first \$2,000 received during a calendar year by an individual (who has attained 19 years of age) as compensation for participation in a clinical trial meeting the requirements of section 1612(b)(26) of the Social Security Act.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Veterans' Health Insurance Program
- 2) Code Citation: 89 Ill. Adm. Code 128
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
128.100	Amended
128.110	Amended
128.200	Amended
128.210	Amended
128.220	Amended
128.240	Amended
128.250	Amended
128.260	Amended
128.310	Amended
128.320	Amended
128.330	Amended
128.340	Amended
128.350	Amended
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 95-755
- 5) Complete Description of the Subjects and Issues Involved: These amendments are proposed to comply with the Veterans' Health Insurance Program Act of 2008 (PA 95-755) that expands the Veterans Care Program to offer more uninsured Veterans and their spouses access to affordable health benefits. Further, a flat rate for premiums will be implemented, rather than Premium Level I and Premium Level II, which are obsolete.

The total estimated cost to implement the proposed changes for FY12 will be \$1.375 million. The estimated cost for Veterans is \$1 million and for Veteran's spouses is \$375,000.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

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

217/782-1233

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this Rulemaking was Summarized: January 2011

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 128

VETERANS' HEALTH INSURANCE PROGRAM

SUBPART A: GENERAL PROVISIONS

Section

128.100	General Description
128.110	Definitions

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

Section

128.200	Eligibility
128.210	Eligibility Exclusions and Terminations
128.220	Application Process
128.230	Determination of Monthly Countable Income
128.240	Eligibility Determination and Enrollment Process
128.250	Appeals
128.260	Renewals of Eligibility
128.300	Covered Services
128.310	Service Exclusions
128.320	Co-payments and Cost Sharing
128.330	Premium Requirements
128.340	Non-payment of Premium
128.350	Provider Reimbursement

AUTHORITY: The Veterans' Health Insurance Program Act [330 ILCS 126].

SOURCE: Emergency rule adopted at 30 Ill. Reg. 15044, effective September 1, 2006, for a maximum of 150 days; adopted at 31 Ill. Reg. 2643, effective January 28, 2007; amended at 33 Ill. Reg. 12724, effective September 7, 2009; amended at 33 Ill. Reg. 17082, effective December 2, 2009; amended at 36 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 128.100 General Description

This Part implements the Veterans' Health Insurance Program Act of 2008 [330 ILCS 126] that authorizes the Department to administer a program to offer uninsured veterans [and their spouses](#) in Illinois access to health benefits. The Department coordinates with the Illinois Department of Veterans' Affairs to assist veterans to apply for the program. Eligible veterans are not eligible for Veterans Administration Healthcare or other State-administered health benefits. The Department shall provide health benefits coverage to eligible veterans [and their spouses](#) through purchasing or providing health care benefits. When cost-effective, the Department may offer veterans [and spouses](#) subsidies toward the cost of privately sponsored health insurance, including employer-sponsored health insurance.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 128.110 Definitions

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

"Act" means the Veterans' Health Insurance Program Act of 2008 [330 ILCS 126].

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

"DVA" means the Illinois Department of Veterans Affairs.

"Family" means the veteran applying for the program and the following individuals living with the veteran who are counted in determining eligibility:

The spouse of the veteran;

Children under 19 years of age of the veteran or the veteran's spouse;

If the veteran or the spouse is pregnant, the unborn children.

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Health Insurance" means health insurance coverage as defined in 215 ILCS 105/2.

"Practitioner" means a physician (including a hospital billing a physician office visit), osteopath, podiatrist, optometrist, chiropractor, advanced practice nurse, Federally Qualified Health Center, Rural Health Clinic or Encounter Rate Clinic.

"Program" means the program created under the Veterans' Health Insurance Program Act and this Part, commonly called Veterans Care.

"Resident" means an individual who has an Illinois residence, as provided in Section 5-3 of the Illinois Public Aid Code.

"Spouse" means the person who, under the laws of the State of Illinois, is married to an eligible veteran at the time of application and subsequent redetermination for the program and includes enrolled spouses surviving the death of the eligible veteran.

"Uninsured" means the person is not covered by group or individual health insurance that provides coverage for hospitalization and physician visits.

"Veteran" means an individual who served for at least 180 ~~consecutive~~ days after initial training in any branch of the U.S. military including the Reserves and National Guard. The veteran must not be currently on active duty in the U.S. military.

"Veterans Administration Geographic Means Test" means the U.S. Department of Veterans Affairs Healthcare Program Enhancement Act of 2009 (38 USC 1705(a)(7)) income guidelines established ~~by the U.S. Veterans Administration~~ annually by county and published in the Federal Register for determining eligibility for Veterans Administration healthcare. The income guidelines can also be found at: <http://www.va.gov/healtheligibility/Library/pubs/GMTIncomeThresholds>.

"Veterans Administration Healthcare" means any of the health programs or services provided or administered by the U.S. Department of Veterans Affairs.

"Veterans Care" means the common name for this program under the Act.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

Section 128.200 Eligibility

A veteran may be eligible for Veterans Care provided that all of the following eligibility criteria are met:

- a) The veteran is not eligible for Veterans Administration healthcare, medical assistance under the Public Aid Code or benefits, including rebates, under the Children's Health Insurance Program Act;
- b) The veteran was not dishonorably discharged;
- c) The veteran is a resident of the State of Illinois;
- d) The veteran is at least 19 and is no more than 64 years of age; and
- e) The veteran meets one of the following:
 - 1) The veteran has been uninsured for at least ~~three~~six months;
 - 2) The veteran lost health insurance when the veteran's or the veteran's spouse's job ended within six months prior to applying under this Part;
 - 3) The veteran has exhausted the life-time benefit limit of his or her health insurance within six months prior to applying under this Part;
 - 4) The veteran's health insurance is purchased under the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA);
 - 5) The veteran was disenrolled for medical assistance under the Public Aid Code or benefits, including rebates under the Children's Health Insurance Program Act, within six months prior to applying under this Part;
 - 6) The veteran has health insurance provided by the veteran's spouse but the veteran is unable to access such health insurance benefits;
 - 7) The veteran has post-active duty related TRICARE healthcare coverage.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 128.210 Eligibility Exclusions and Terminations

- a) A veteran or spouse shall not be determined eligible for Veterans Care if:
- 1) The veteran or spouse is an inmate of a public institution.
 - 2) The veteran or spouse is a resident of a nursing facility.
- b) A veteran's coverage under the program shall be terminated if the veteran:
- 1) Loses his or her Illinois residency. If the spouse loses Illinois residency, only the spouse loses eligibility.
 - 2) Attains 65 years of age. If the spouse attains 65 years of age before the veteran, only the spouse loses eligibility.
 - 3) Becomes enrolled in Veterans Administration healthcare, medical assistance under the Public Aid Code or health benefits including rebates under the Children's Health Insurance Program Act (CHIPA). If the spouse becomes enrolled in VA Healthcare, medical assistance under the Public Aid Code or CHIPA, only the spouse loses eligibility.
 - 4) Meets the provisions of subsection (a) of this Section.
 - 5) Fails to pay the premium as specified in Section 128.330.
 - 6) Fails to report to the Department changes that affect eligibility for the program.
 - 7) Asks the Department to terminate the coverage.
 - 8) Is no longer eligible based on any other applicable State or federal law or regulation.
 - 9) Failed to provide eligibility information that was truthful and accurate to the best of the veteran's knowledge and belief and that affected the veteran's eligibility.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 10) Was incorrectly determined eligible.
 - 11) Fails to complete the redetermination of eligibility within the required timeframes or provide proof of on-going eligibility.
 - 12) Becomes a resident of a nursing facility or inmate in a public institution. If the spouse becomes a resident of a nursing facility or inmate in a public institution, only the spouse loses eligibility. ~~Becomes covered by other health insurance.~~
- c) Following termination of a veteran's coverage under the program, the following action is required before the veteran and spouse can be re-enrolled:
- 1) A new application must be completed and the veteran must be determined otherwise eligible.
 - 2) There must be full payment of premiums due under this Part for periods in which a premium was owed and not paid.
 - 3) If the termination was the result of non-payment of premiums, the veteran and spouse are ineligible for the program for three months, starting with the first month of cancellation or termination from coverage, before becoming eligible for re-enrollment.
 - 4) If there was an unpaid premium from a previous coverage period, the unpaid premium, in addition to the first month's premium, must be paid before new coverage may begin.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 128.220 Application Process

- a) Veterans apply for the program by submitting the Veterans Care application to the Department, or through one of the DVA's Veterans Service Offices, through the Veterans Assistance Commission serving the veteran's community, or through a U.S. Veterans Administration facility in Illinois. The Department may designate additional entities that may assist veterans to submit applications.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- b) The application must meet all requirements found at 89 Ill. Adm. Code 110.10, including provisions regarding who may apply on behalf of the veteran.
- c) Applicants are obligated to provide truthful and accurate information for determining eligibility and to promptly report any change in information provided on the application.
- d) The Department may stop taking applications if that is necessary to maintain the cost of the program within the available funding.
- e) [An eligible veteran may choose to apply to add the spouse to his or her existing case.](#)

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 128.240 Eligibility Determination and Enrollment Process

- a) The applicant's military discharge status, time spent in active duty, health insurance status and eligibility for Veterans Administration healthcare will be reviewed first.
- b) For the purpose of determining eligibility under this Part, applicants who are not found ineligible under subsection (a) of this Section will be screened for eligibility for medical assistance under the Public Aid Code or health benefits, including rebates, under the Children's Health Insurance Program Act. Veterans who are likely to be eligible for these other programs will be directed to apply for them. Veterans [and their spouses](#) may be enrolled under this Part while an application for coverage under another program is pending.
- c) If the monthly countable income is [equal to or less than](#)~~below~~ the Veterans Care income standard, the application will be approved if all other factors of eligibility are met. The Veterans Care income standard is 50 percent of the Federal Poverty Level plus the Veterans Administration Geographic Means Test threshold.
 - 1) ~~If the veteran's income is equal to or less than 25 percent of the Federal Poverty Level plus the Veterans Administration Geographic Means Test threshold, the veteran shall be enrolled in Veterans Care Premium Level I.~~
 - 2) ~~If the veteran's income is more than 25 percent of the Federal Poverty Level plus the Veterans Administration Geographic Means Test threshold~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

~~and equal to or less than 50 percent of the Federal Poverty Level plus the Veterans Administration Geographic Means Test threshold, the veteran shall be enrolled in Veterans Care Premium Level II.~~

- d) Applicants will be notified, in writing, regarding the outcome of their eligibility determination.
- e) Eligibility determinations for the program made by the 10th day of a month will be effective the first day of the following month. Eligibility determinations for the program made after the 10th day of a month will be effective no later than the first day of the second month following that determination.
- f) The duration of eligibility for the program will be 12 months unless one of the events described in Section 128.210(b) occurs or the Department shortens the enrollment period to maintain program spending within available funding.
- g) Veterans and their spouses may obtain backdated medical coverage for the month of application plus up to three months prior to the month of application, except as stated in Section 128.330(a). Spouses are not eligible to be included for backdated months prior to 10/1/11. This coverage shall be subject to the veteran paying the premiums for the months of backdated coverage requested. The veteran and spouse may choose the month for which backdated coverage will begin. Backdated months of coverage shall be consecutive beginning with the initial month of backdated coverage requested.
- h) At the sole discretion of the Department, the Department may reduce the income threshold established in subsection (c) of this Section if necessary to keep the cost of the program within available funding.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 128.250 Appeals

- a) Any person who applies for or receives benefits under the program shall have the right to appeal any of the following actions:
 - 1) Refusal to accept an application.
 - 2) Denial of an application or cancellation at the redetermination of eligibility, including denial based on failure to meet one or more of the

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

eligibility requirements specified in this Part. No eligibility exists during the appeal process. If the appeal is upheld, the veteran [or spouse](#) will have the opportunity to receive coverage back to the original application date, including possible backdated months or the cancellation month. All premium and co-payment requirements shall apply to the retroactive period.

- 3) Termination of coverage based on failure to continue to meet one or more of the eligibility requirements specified in this Part. If the termination is not upheld on appeal, coverage under the Program shall be reinstated retroactive to the termination date. All premium and co-payment requirements shall apply to any retroactive period. The veteran [or spouse](#) may choose coverage for all or some of the months during the appeal process as long as the retroactive months are consecutive to the new initial month of regular eligibility.
 - 4) Determination of the amount of the premium or co-payments required. Any premium or co-payment requirements shall remain in force during the appeal process.
 - 5) Individuals or their representatives do not have the right to appeal Department decisions necessary to keep the cost of the program within the annual appropriations, such as a Department decision to:
 - A) cease accepting applications pursuant to Section 128.220(d).
 - B) increase premium levels for all individuals within an income range.
 - C) require more frequent redeterminations of eligibility.
 - D) increase the income standard.
- b) In addition to the actions that are appealable under subsection (a) of this Section, individuals shall have the right to appeal any of the following actions:
- 1) Termination of coverage due to non-payment of the required premium.
 - 2) Denial of payment for a medical service or item that requires prior approval.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 3) Decision granting prior approval for a lesser or different medical service or item than was originally requested.
- c) Individuals may initiate the appeal process by:
 - 1) Filing a written, signed request for a hearing directed to the Department's Bureau of Administrative Hearings;
 - 2) Calling a toll free telephone number designated by the Department.
- d) The request for a hearing may be filed by the individual affected by the action or by the individual's authorized representative.
- e) For purposes of initiating the appeal process, a copy of a written, signed request for a hearing is considered the same as the original written, signed request.
- f) The request for a hearing must be filed no later than 60 days after notice of the appealable action has been given.
- g) The provisions of Subpart A of the Department's administrative rules at 89 Ill. Adm. Code 104, Practice in Administrative Hearings, shall govern the handling of appeals and the conduct of hearings under the Program.
- h) An individual can, prior to a decision being rendered on the appeal, reapply for the Program.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 128.260 Renewals of Eligibility

- a) Eligibility shall be reviewed at least annually.
- b) Prior to the eligibility period ending, and in sufficient time for the veteran [and spouse](#) to respond to the Department's request for information, the Department or its designee will send an annual renewal notice to the veteran.
- c) Renewals shall be subject to all eligibility requirements and exclusions set forth in Sections 128.200, ~~and~~ 128.210, [128.230 and 128.240\(a\)](#).

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- d) The Department may require renewal of eligibility more frequently than annually if necessary to keep spending within available funding.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 128.310 Service Exclusions

The following health care services shall not be covered under this Part.

- a) Non-emergency medical transportation.
- b) Nursing facility services.
- c) [Funeral and burial expenses.](#)

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 128.320 Co-payments and Cost Sharing

- a) Co-payments or cost sharing may be charged for services provided to a veteran [and spouse](#) by a health care provider as described in subsection (b), except for practitioner visits scheduled for family planning services.
- b) Co-payment and cost sharing requirements are as follows:
- 1) Practitioner office visits, \$15;
 - 2) Dental visits, \$15;
 - 3) Inpatient hospitalizations, \$150 per hospital stay;
 - 4) Hospital or Ambulatory Surgical Treatment Center outpatient encounters with a payable service on the Ambulatory Procedure List as set forth at 89 Ill. Adm. Code 148.140(b), 10 percent of the Department rate as set forth in Section 128.350(c);
 - 5) Hospital Emergency Visits, \$50;
 - 6) Prescription drugs, \$6 for a 1- to 30-day supply of generic drugs or \$14 for a 1- to 30-day supply of brand name drugs.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- c) Providers are responsible for collecting co-payments.
- d) Providers may elect not to charge co-payments. If co-payments are charged, the co-payment may not exceed the amounts established in this Section.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 128.330 Premium Requirements

- a) Veterans enrolled in Veterans Care must pay a monthly premium of \$20. The veteran may choose to enroll the eligible spouse for an additional \$20 per month. For any backdated months prior to April 1, 2012, premiums shall be as follows:
 - 1) If the Veteran's income is equal to or less than 25 percent of the Federal Poverty Level plus the Veterans Administration Geographic Means Test threshold, the premium is \$40 per month.~~Veterans Care Premium Level I: \$40 per month.~~
 - 2) If the Veteran's income is more than 25 percent of the Federal Poverty Level plus the Veterans Administration Geographic Means Test threshold and equal to or less than 50 percent of the Federal Poverty Level plus the Veterans Administration Geographic Means Test threshold, the premium is \$70 per month.~~Veterans Care Premium Level II: \$70 per month.~~
 - 3) There are no backdated months for an eligible spouse prior to April 1, 2012. Premiums for any backdated months after April 1, 2012 for an eligible spouse are \$20 per month.
- b) Premiums are billed by and payable to the Department, or its authorized agent, on a monthly basis.
- c) The premium due date is the 20th day of the month preceding the month of coverage.
- d) The premium may increase during the eligibility period if the Department makes a decision to increase premiums to keep the program costs within available funding.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- e) Premiums for backdated months must be received by the 90th day after the date of eligibility determination. Coverage for backdated months is not provided if the payment is not received by the due date.

(Source: Amended at 36Ill. Reg. _____, effective _____)

Section 128.340 Non-payment of Premium

- a) For initial coverage, the Veteran must pay the first monthly premium by the due date to begin coverage for the Veteran and spouse. ~~veterans will have a grace period through the end of the month preceding the third month of coverage to pay the premium.~~ For subsequent months, veterans will have a grace period of one month following the month in which the premium was due to pay the premium.
- b) Failure to pay the full monthly premium by the last day of the grace period will result in termination of coverage.
- c) Partial premium payments will not be refunded.
- d) When termination of coverage is recorded by the 10th day of the month, it will be effective the first day of the following month. When termination of coverage is recorded after the 10th day of the month, it will be effective no later than the first day of the second month following.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 128.350 Provider Reimbursement

- a) Provider participation under this Part shall be subject to enrollment with and approval by the Department to provide health care under 89 Ill. Adm. Code 140.11 and 140.12.
- b) Provider participation under this Part shall be voluntary.
- c) Providers under this Part shall be reimbursed in accordance with the established rates of the Department or other appropriate State agency (as set forth in 89 Ill. Adm. Code 140, 143, 144, 148, 149, 152, and 153; 52 Ill. Adm. Code 132; and 77 Ill. Adm. Code 2090) less co-payments or cost sharing as specified in Section 128.320, regardless of whether the patient share is collected.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- d) Providers under this Part shall be prohibited from billing veterans covered under Veterans Care for any difference between the charge amount and the amount paid by the Department other than the co-payment amounts specified in Section 128.320.
- e) Providers shall be responsible for refunding to the [veteran and spouse](#)~~veteran~~ co-payments collected in excess of the amounts permitted by this Part.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
140.1300	New Section
140.1310	New Section
140.1320	New Section
140.1330	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking in conjunction with rules filed under 89 Ill. Adm. Code 104, provides the procedural framework for the implementing amendments to 305 ILCS 5/8A-2.5. The statute allows HFS to seek to recover State and federal money that has improperly and erroneously paid benefits as a result of fraudulent action. Further, law requires that, prior to the recovery of any amount paid for benefits allegedly obtained by fraudulent means the recipient of such benefits shall be afforded the opportunity for a hearing. In addition, HFS hearings enforcement of final administrative decisions, and collection of repayment and penalty amounts are outlined in this rule.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
140.415	Amendment	35 Ill. Reg. 12600; July 29, 2011
140.445	Amendment	35 Ill. Reg. 12600; July 29, 2011
140.446	Amendment	35 Ill. Reg. 12600; July 29, 2011
140.80	Amendment	35 Ill. Reg. 12202; July 22, 2011
140.82	Amendment	35 Ill. Reg. 12202; July 22, 2011

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

140.84	Amendment	35 Ill. Reg. 12202; July 22, 2011
140.462	Amendment	35 Ill. Reg. 11126; July 15, 2011

- 11) Statement of Statewide Policy Objectives: This rulemaking does affect units of local government. It will have an impact on county government entities that own or operate nursing facilities enrolled in the Medical Assistance Program.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

217/782-1233

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: Preparation, documentation, and submission of facility's cost report.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 140.98 Covered Hospital Services (Recodified)
- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Recodified)

140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section

140.400	Payment to Practitioners
140.402	Copayments for Noninstitutional Medical Services
140.403	Telehealth Services
140.405	SeniorCare Pharmaceutical Benefit (Repealed)
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
140.420	Dental Services
140.421	Limitations on Dental Services
140.422	Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
140.425	Podiatry Services
140.426	Limitations on Podiatry Services
140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
140.428	Chiropractic Services
140.429	Limitations on Chiropractic Services (Repealed)
140.430	Independent Clinical Laboratory Services
140.431	Services Not Covered by Independent Clinical Laboratories
140.432	Limitations on Independent Clinical Laboratory Services
140.433	Payment for Clinical Laboratory Services
140.434	Record Requirements for Independent Clinical Laboratories
140.435	Advanced Practice Nurse Services
140.436	Limitations on Advanced Practice Nurse Services
140.438	Diagnostic Imaging Services
140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 140.443 Filling of Prescriptions
- 140.444 Compounded Prescriptions
- 140.445 Legend Prescription Items (Not Compounded)
- 140.446 Over-the-Counter Items
- 140.447 Reimbursement
- 140.448 Returned Pharmacy Items
- 140.449 Payment of Pharmacy Items
- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
- 140.452 Mental Health Services
- 140.453 Definitions
- 140.454 Types of Mental Health Services
- 140.455 Payment for Mental Health Services
- 140.456 Hearings
- 140.457 Therapy Services
- 140.458 Prior Approval for Therapy Services
- 140.459 Payment for Therapy Services
- 140.460 Clinic Services
- 140.461 Clinic Participation, Data and Certification Requirements
- 140.462 Covered Services in Clinics
- 140.463 Clinic Service Payment
- 140.464 Hospital-Based and Encounter Rate Clinic Payments
- 140.465 Speech and Hearing Clinics (Repealed)
- 140.466 Rural Health Clinics (Repealed)
- 140.467 Independent Clinics
- 140.469 Hospice
- 140.470 Eligible Home Health Providers
- 140.471 Description of Home Health Services
- 140.472 Types of Home Health Services
- 140.473 Prior Approval for Home Health Services
- 140.474 Payment for Home Health Services
- 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
- 140.480 Equipment Rental Limitations

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

140.481	Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
140.482	Family Planning Services
140.483	Limitations on Family Planning Services
140.484	Payment for Family Planning Services
140.485	Healthy Kids Program
140.486	Illinois Healthy Women
140.487	Healthy Kids Program Timeliness Standards
140.488	Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.494	Record Requirements for Medical Transportation Services
140.495	Psychological Services
140.496	Payment for Psychological Services
140.497	Hearing Aids
140.498	Fingerprint-Based Criminal Background Checks

SUBPART E: GROUP CARE

Section	
140.500	Long Term Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Informal Hearing Process for Denial of Payment for New ICF/MR
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered By Department Payment
140.512	Utilization Control
140.513	Notification of Change in Resident Status
140.514	Certifications and Recertifications of Care (Repealed)
140.515	Management of Recipient Funds – Personal Allowance Funds
140.516	Recipient Management of Funds
140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds
140.520	Management of Recipient Funds – Local Office Responsibility

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Quality Incentive Program (QUIP) Payment Levels
140.526	County Contribution to Medicaid Reimbursement (Repealed)
140.527	Quality Incentive Survey (Repealed)
140.528	Payment of Quality Incentive (Repealed)
140.529	Reviews (Repealed)
140.530	Basis of Payment for Long Term Care Services
140.531	General Service Costs
140.532	Health Care Costs
140.533	General Administration Costs
140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
140.538	Special Costs
140.539	Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
140.540	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541	Salaries Paid to Owners or Related Parties
140.542	Cost Reports – Filing Requirements
140.543	Time Standards for Filing Cost Reports
140.544	Access to Cost Reports (Repealed)
140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs Updates
140.552	Nursing and Program Costs
140.553	General Administrative Costs Updates
140.554	Component Inflation Index (Repealed)
140.555	Minimum Wage
140.560	Components of the Base Rate Determination
140.561	Support Costs Components
140.562	Nursing Costs
140.563	Capital Costs
140.565	Kosher Kitchen Reimbursement

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 140.566 Out-of-State Placement
- 140.567 Level II Incentive Payments (Repealed)
- 140.568 Duration of Incentive Payments (Repealed)
- 140.569 Clients With Exceptional Care Needs
- 140.570 Capital Rate Component Determination
- 140.571 Capital Rate Calculation
- 140.572 Total Capital Rate
- 140.573 Other Capital Provisions
- 140.574 Capital Rates for Rented Facilities
- 140.575 Newly Constructed Facilities (Repealed)
- 140.576 Renovations (Repealed)
- 140.577 Capital Costs for Rented Facilities (Renumbered)
- 140.578 Property Taxes
- 140.579 Specialized Living Centers
- 140.580 Mandated Capital Improvements (Repealed)
- 140.581 Qualifying as Mandated Capital Improvement (Repealed)
- 140.582 Cost Adjustments
- 140.583 Campus Facilities
- 140.584 Illinois Municipal Retirement Fund (IMRF)
- 140.590 Audit and Record Requirements
- 140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
- 140.643 In-Home Care Program
- 140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21 (Repealed)
- 140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
- 140.647 Description of Developmental Training (DT) Services
- 140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
- 140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs
- 140.650 Certification of Developmental Training (DT) Programs
- 140.651 Decertification of Day Programs
- 140.652 Terms of Assurances and Contracts
- 140.680 Effective Date Of Payment Rate
- 140.700 Discharge of Long Term Care Residents
- 140.830 Appeals of Rate Determinations
- 140.835 Determination of Cap on Payments for Long Term Care (Repealed)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART F: FEDERAL CLAIMING FOR STATE AND
LOCAL GOVERNMENTAL ENTITIES

Section

140.850	Reimbursement of Administrative Expenditures
140.855	Administrative Claim Review and Reconsideration Procedure
140.860	County Owned or Operated Nursing Facilities
140.865	Sponsor Qualifications (Repealed)
140.870	Sponsor Responsibilities (Repealed)
140.875	Department Responsibilities (Repealed)
140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
140.890	Payment Methodology (Repealed)
140.895	Contract Monitoring (Repealed)
140.896	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
140.910	Referrals (Recodified)
140.911	Basic Rehabilitation Aide Training Program (Recodified)
140.912	Interim Nursing Rates (Recodified)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section

140.920	General Description
140.922	Covered Services
140.924	Maternal and Child Health Provider Participation Requirements
140.926	Client Eligibility (Repealed)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 140.928 Client Enrollment and Program Components (Repealed)
140.930 Reimbursement
140.932 Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND
REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section

- 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
140.942 Definition of Terms (Recodified)
140.944 Notification of Negotiations (Recodified)
140.946 Hospital Participation in ICARE Program Negotiations (Recodified)
140.948 Negotiation Procedures (Recodified)
140.950 Factors Considered in Awarding ICARE Contracts (Recodified)
140.952 Closing an ICARE Area (Recodified)
140.954 Administrative Review (Recodified)
140.956 Payments to Contracting Hospitals (Recodified)
140.958 Admitting and Clinical Privileges (Recodified)
140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.964 Contract Monitoring (Recodified)
140.966 Transfer of Recipients (Recodified)
140.968 Validity of Contracts (Recodified)
140.970 Termination of ICARE Contracts (Recodified)
140.972 Hospital Services Procurement Advisory Board (Recodified)
140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

Section

- 140.990 Primary Care Case Management Program
140.991 Primary Care Provider Participation Requirements

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

140.992	Populations Eligible to Participate in the Primary Care Case Management Program
140.993	Care Management Fees
140.994	Panel Size and Affiliated Providers
140.995	Mandatory Enrollment
140.996	Access to Health Care Services
140.997	Payment for Services

SUBPART J: ALTERNATE PAYEE PARTICIPATION

Section

140.1001	Registration Conditions for Alternate Payees
140.1002	Participation Requirements for Alternate Payees
140.1003	Recovery of Money for Alternate Payees
140.1004	Conditional Registration for Alternate Payees
140.1005	Revocation of an Alternate Payee

SUBPART K: MANDATORY MCO ENROLLMENT

140.1010	Mandatory Enrollment in MCOs
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SUBPART L: UNAUTHORIZED USE OF MEDICAL ASSISTANCESection

<u>140.1300</u>	<u>Definitions</u>
<u>140.1310</u>	<u>Recovery of Money</u>
<u>140.1320</u>	<u>Penalties</u>
<u>140.1330</u>	<u>Enforcement</u>

140.TABLE A	Medicheck Recommended Screening Procedures (Repealed)
140.TABLE B	Geographic Areas
140.TABLE C	Capital Cost Areas
140.TABLE D	Schedule of Dental Procedures
140.TABLE E	Time Limits for Processing of Prior Approval Requests
140.TABLE F	Podiatry Service Schedule
140.TABLE G	Travel Distance Standards
140.TABLE H	Areas of Major Life Activity
140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)
140.TABLE J	HSA Grouping (Repealed)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 140.TABLE K Services Qualifying for 10% Add-On (Repealed)
140.TABLE L Services Qualifying for 10% Add-On to Surgical Incentive Add-On
(Repealed)
140.TABLE M Enhanced Rates for Maternal and Child Health Provider Services

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

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; 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;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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. _____, effective _____.

SUBPART L: UNAUTHORIZED USE OF MEDICAL ASSISTANCESection 140.1300 Definitions

This Subpart adopts the definitions set forth in 89 Ill. Adm. Code 104.910.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 140.1310 Recovery of Money

- a) The Department shall recover any and all State and federal monies that the Director, by his or her final administrative decision, has determined were improperly and erroneously paid by:
- 1) direct payment to the Department;
 - 2) recoupment from any future assistance provided by the State pursuant to 305 ILCS 5/11-14.5, provided that the recoupment from the future assistance is the greater of either 20 percent of the household's monthly benefit amount or \$20;
 - 3) recoupment from SNAP benefits pursuant to 305 ILCS 5/11-14.5, provided that the recoupment from the SNAP benefits is the greater of either 20 percent of the household's monthly benefit amount or \$20;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 4) initiation of wage garnishment proceedings;
 - 5) referral of the overpayment to a private collection agency for collection;
 - 6) referral of the overpayment to the Comptroller of the State of Illinois for collection under Section 10.5 of the State Comptroller Act [15 ILCS 405/10.5];
 - 7) initiation of proceedings to obtain a civil judgment under Section 8A-7 of the Illinois Public Aid Code [305 ILCS 5/8A-7];
 - 8) referral of the overpayment to the Treasury Offset Program for deduction of the debt from tax refunds and/or other federal warrants in accordance with federal regulations (see 7 CFR 272-273); or
 - 9) any legal means consistent with State and federal law.
- b) The Department may recover interest, at the rate, and accruing as, stated in 89 Ill. Adm. Code 104.930(b), on State and federal monies that the Director, by his or her final administrative decision, has determined were improperly and erroneously paid to, or on behalf of, any person who knowingly:
- 1) uses, acquires, possesses or transfers a medical card in any manner not authorized by law or by rules of the Department;
 - 2) aids, abets, incites, compels or coerces the use, acquisition, possession or transfer of a medical card in any manner not authorized by law or by rules of the Department;
 - 3) alters a medical card;
 - 4) uses, acquires, possesses or transfers an altered medical card;
 - 5) obtains unauthorized medical benefits with or without the use of a medical card; or
 - 6) causes to be presented to the Department a claim for unauthorized medical benefits.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 140.1320 Penalties

- a) The Department may recover a civil penalty in an amount not to exceed \$2,000 for each benefit or payment received, in addition to any other penalties provided by law.
- b) A written notice of penalty assessment shall be sent to the person against whom the penalty is to be assessed. Each notice of penalty assessment shall include:
 - 1) the amount of the penalty being assessed;
 - 2) a description of the circumstances that led to the assessment of the penalty; and
 - 3) a citation to the provision of the Act or the rule the person has violated.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 140.1330 Enforcement

- a) Upon entry of a final administrative decision for repayment of any unauthorized medical benefits or payments, or for any civil penalties assessed:
 - 1) any unpaid amount of repayment or penalty will constitute a debt due and owing to the Department; and
 - 2) a lien shall attach to all property and assets of the person, firm, corporation, association, agency, institution or other legal entity until the debt is satisfied. The lien may be enforced in the same manner as a judgment lien under a judgment of a court of competent jurisdiction.
- b) Any amounts imposed by a final administrative decision that remain unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures shall be a debt due and owing the Department and, as such, may be collected in accordance with applicable law or the rules of the Department.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- c) After the expiration of the period in which judicial review may be sought, unless stayed by a court of competent jurisdiction, the final administrative decision may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.
- d) Nothing in this Section shall prevent the Department from enforcing or seeking to enforce the final administrative decision in any manner that is in accordance with applicable law.

(Source: Added at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Electronic Health Information Technology
- 2) Code Citation: 89 Ill. Adm. Code 150
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
150.5	New Section
150.10	New Section
150.15	New Section
150.20	New Section
150.100	New Section
150.110	New Section
150.120	New Section
150.130	New Section
150.140	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking codifies the procedures for the HFS Electronic Health Record Provider Incentive Payment (EHR/PIP) program. HFS launched the EHR/PIP program on September 5, 2011 and is required to make the first payment in February 2012.

The American Recovery and Reinvestment Act of 2009 provides 100% funding for this program. The Electronic Health Record Incentive Fund was established for the depositing and disbursement of federal money received for payments to qualifying healthcare providers.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

- 11) Statement of Statewide Policy Objectives: This rulemaking does affect units of local government. It will have an impact on county government entities that own or operate nursing facilities enrolled in the Medical Assistance Program.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

217/782-1233

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance:
Preparation, documentation, and submission of facility's cost report.
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 150

ELECTRONIC HEALTH INFORMATION TECHNOLOGY

SUBPART A: GENERAL PROVISIONS

Section

- 150.5 Incorporation by Reference
- 150.10 Definitions
- 150.15 Applicability
- 150.20 Legislative Basis

SUBPART B: PROVIDER INCENTIVE PROGRAM

Section

- 150.100 Provider Eligibility
- 150.110 Provider Registration and Attestation
- 150.120 Incentive Payment
- 150.130 Appeals
- 150.140 Audits

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 36 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 150.5 Incorporation by Reference

- a) Any rules or regulations of an agency of the United States or of a nationally recognized organization or association that are incorporated by reference in this Part are incorporated as of the date specified and do not include any later amendments or editions.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

- b) To the extent that they are not inconsistent with this Part, the provisions of 42 CFR 495 (2011) are incorporated in this Part.

Section 150.10 Definitions

For the purposes of this Part, the following definitions apply:

"Acute care hospital" means a hospital that has been assigned a CCN with the last four digits in the series 0001-0879 or 1300-1399 and has an average length of a patient stay of 25 or fewer days. Multiple hospitals operating under a single CCN are, for purposes of this Part, considered as a single hospital.

"Children's hospital" means a hospital that predominately treats individuals under the age of 21 and has been assigned a CMS certification number with the last four digits in the series 3300-3399 or, in the instance of a hospital that does not participate in Medicare, is licensed as a pediatric hospital by the Illinois Department of Public Health.

"Coordinated care participating hospital" means a hospital that is located in a geographic area of the State in which HFS mandates some or all of the beneficiaries of the Medical Assistance Program residing in the area to enroll in a care coordination program, as defined in 305 ILCS 5/5-30, that has entered into a contract to provide hospital services to enrollees of the care coordination program; has not been offered a contract by a care coordination plan that pays no less than HFS would have paid on a fee-for-service (FFS) basis, but excluding disproportionate share hospital adjustment payments or any other supplemental payment that HFS pays directly; or is not licensed to serve the population mandated to enroll in the care coordination program.

"CCN" means CMMS certification number, a six character identification number assigned to CMMS Medicare and Medicaid providers (formerly known as the Medicare/Medicaid provider number, the online survey, certification and reporting (OSCAR) number, or the Medicare identification number).

"CMMS" means the Centers for Medicare and Medicaid Services, the organizational unit within the U.S. Department of Health and Human Services responsible for overseeing the Medicaid program.

"Department" means the Department of Healthcare and Family Services.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

"Hospital" means any institution, place, building or agency, public or private, whether organized for profit or not-for-profit, that is:

located in Illinois and is subject to licensure by the Illinois Department of Public Health under the Hospital Licensing Act [210 ILCS 85] or the University of Illinois Hospital Act [110 ILCS 330]; or

located in another state and meets all comparable conditions and requirements of the Hospital Licensing Act in effect for the state in which it is located.

"Medicaid" means medical assistance provided pursuant to Title XIX of the federal Social Security Act, as implemented pursuant to Article V of the Illinois Public Aid Code or a comparable law in another state.

"Medicaid Managed Care Entity (MMCE) participating hospitals" means a hospital that is located in a geographic area of the State in which HFS offers enrollment with an MMCE as a voluntary option to beneficiaries of the Medical Assistance Program and that has entered into a contract to provide hospital services to enrollees of an MMCE.

"Medicare" means health insurance provided pursuant to Title XVIII of the federal Social Security Act.

Section 150.15 Applicability

- a) Should any rule, subdivision, clause, phrase or provision of this Part be held unconstitutional or invalid for any reason whatsoever, those holdings shall not affect the validity of the remaining portions of this Part.
- b) This Part shall be operative only to the extent that it does not conflict with any federal law or regulation governing federal grants for the funding of, or reimbursement of public expenditures for, the development and use of health information technology.

Section 150.20 Legislative Basis

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

- a) The Illinois Health Information Exchange and Technology Act (P.A. 96-1331) established the Illinois Health Information Exchange to promote and facilitate the sharing of health information among health care providers within Illinois and in other states.
- b) The American Recovery and Reinvestment Act of 2009 (P. L. 111-5) offers funding to states to promote and facilitate the sharing of health information among health care providers.

SUBPART B: PROVIDER INCENTIVE PROGRAM

Section 150.100 Provider Eligibility

- a) General Requirements. A provider must:
 - 1) Be within one of the classes of eligible professionals enumerated in subsection (b).
 - 2) Be enrolled, and in good standing, with the Department to participate in the Illinois Medical Assistance Program.
 - 3) Be a registered user of the Department's Medical Electronic Data Interchange System.
- b) Eligible Professionals (EP).
 - 1) The health practitioners that may be eligible for incentive payments are limited to the following:
 - A) A certified nurse-midwife.
 - B) A dentist.
 - C) A nurse practitioner.
 - D) A physician.
 - E) An optometrist.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

- F) A physician assistant (PA) practicing in a federally qualified health center (FQHC) or a rural health clinic (RHC) that is led by a PA.
- 2) Eligible Hospitals (EH). The hospitals that may be eligible for incentive payments are limited to the following hospitals:
 - A) Acute care hospitals.
 - B) Children's hospitals.
- c) Eligibility Requirements for EP. For each year for which the practitioner seeks an incentive payment, the practitioner must:
 - 1) Have a minimum 30 percent patient volume attributable to individuals receiving Medicaid, except in the instance of a practitioner:
 - A) that is a pediatrician, with a minimum 20 percent patient volume attributable to individuals receiving Medicaid.
 - B) that practices predominately in an FQHC or RHC with a minimum 30 percent patient volume attributable to needy individuals, as defined at 42 CFR 495.302.
 - 2) Not be a "hospital-based EP" as defined at 42 CFR 495.4, except this provision does not apply to a practitioner practicing predominately at an FQHC or RHC.
- d) Eligibility Requirements for EH. For each year for which the hospital seeks an incentive payment, an acute care hospital must have at least a 10 percent volume attributable to individuals receiving Medicaid. A children's hospital is exempt from meeting a patient volume threshold.

Section 150.110 Provider Registration and Attestation

- a) Providers must register to receive the incentive payment at the federal CMMS registration website.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

- b) CMMS transmits files from the registration system to the Department containing information necessary to process the provider incentive payment registrations.
- c) Providers that meet the prerequisite criteria established by CMMS will be notified by the Department that they must provide additional information, via attestation to the Department.
- d) Providers must complete the attestation on the Department's Medical Electronic Data Interchange System.
 - 1) The attestation for all providers must include the following:
 - A) A valid NPI number;
 - B) The provider is not sanctioned;
 - C) No Electronic Health Record Provider Incentive Payment (EHR PIP) has been received in the payment year;
 - D) Illinois is the only state selected to request an incentive payment in the payment year;
 - E) The provider meets the patient volume requirements for the Medicaid PIP program as defined in Section 150.100(c) and (d);
 - F) The provider has adopted, implemented or upgraded to a certified Electronic Health Record System;
 - G) The provider has not received State or local government funding that is directly attributable to the cost of EHR technology; and
 - H) The provider agrees to the assignment of the PIP Program payment and that the Taxpayer Identification Number of the assignee is correct.
 - 2) The following provider specific attestation requirements must be completed as appropriate:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

- A) The provider is not a hospital-based professional who furnishes 90 percent or more of his or her professional services in an inpatient hospital or emergency room;
- B) The provider is a pediatrician with a Medicaid patient volume between 20 and 30 percent and is either a board certified pediatrician or 90 percent of the patient volume is under the age of 21 at the time the service is rendered;
- C) The provider is a physician assistant practicing in an FQHC or RHC if the FQHC or RHC:
 - i) is led by a PA as the primary provider;
 - ii) has a clinical or medical director that is a PA; or
 - iii) the owner is a PA;
- D) The provider practices predominately in an FQHC or RHC.
- e) The Department will evaluate the attestation information submitted by providers. The Department will approve or deny provider registration based on the evaluation of the information.
 - 1) Providers who are approved will be scheduled for the incentive payment.
 - 2) Providers who are determined by the Department to be ineligible will be notified of the decision and their right to appeal.

Section 150.120 Incentive Payment

- a) The Department will make the incentive payment to EP, as defined in Section 150.100(b)(1), in accordance with the guidelines defined at 42 CFR 495.310.
- b) The Department will base the incentive payment to EH, as defined in Section 150.100(b)(2), on the hospital aggregate incentive amount as calculated under 42 CFR 495.310.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

- 1) Pediatric specialty hospitals, critical access hospitals, hospitals operated by the Cook County Health and Hospitals System, hospitals operated by the University of Illinois at Chicago and coordinated care participating hospitals and MMCE hospitals with the exception of those identified in subsection (b)(2) will receive the incentive payment based on the following schedule:
 - A) Year 1: 50 percent of the aggregate payment amount.
 - B) Year 2: 40 percent of the aggregate payment amount.
 - C) Year 3: 10 percent of the aggregate payment amount.
 - D) Year 4: 0 percent of the aggregate payment amount.
 - E) Year 5: 0 percent of the aggregate payment amount.
- 2) Hospitals that are either coordinated care participating hospitals or MMCE participating hospitals, but not both, located in an area in which both an MMCE and a mandatory coordinated care program operate, or hospitals that are in areas where neither a mandatory coordinated care program nor an MMCE operate, will receive the incentive payment on the following schedule:
 - A) Year 1: 40 percent of the aggregate payment amount.
 - B) Year 2: 30 percent of the aggregate payment amount.
 - C) Year 3: 20 percent of the aggregate payment amount.
 - D) Year 4: 10 percent of the aggregate payment amount.
 - E) Year 5: 0 percent of the aggregate payment amount.
- 3) Hospitals that do not meet the qualifications outlined in subsections (b)(1) and (b)(2) will receive the incentive payment on the following schedule:
 - A) Year 1: 25 percent of the aggregate payment amount.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

- B) Year 2: 25 percent of the aggregate payment amount.
- C) Year 3: 20 percent of the aggregate payment amount.
- D) Year 4: 15 percent of the aggregate payment amount.
- E) Year 5: 15 percent of the aggregate payment amount.

Section 150.130 Appeals

Providers will be eligible to appeal any of the issues defined at 42 CFR 495.370. All appeals will be processed in accordance with 89 Ill. Adm. Code 104.Subpart C.

Section 150.140 Audits

All audits will be processed in accordance with 89 Ill. Adm. Code 140.30.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

217/782-1233

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

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER f: COLLECTIONS

PART 160

CHILD SUPPORT SERVICES

SUBPART A: GENERAL PROVISIONS

Section

- 160.1 Incorporation by Reference
- 160.5 Definitions
- 160.10 Child Support Enforcement Program
- 160.12 Administrative Accountability Process
- 160.15 Fees for IV-D Non-TANF Cases
- 160.20 Assignment of Rights to Support
- 160.25 Recoupment

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section

- 160.30 Cooperation With Support Enforcement Program
- 160.35 Good Cause for Failure to Cooperate with Support Enforcement
- 160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement
- 160.45 Suspension of Child Support Enforcement Upon a Claim of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS

Section

- 160.60 Establishment of Support Obligations
- 160.61 Uncontested and Contested Administrative Paternity and Support Establishment
- 160.62 Cooperation with Paternity Establishment and Continued Eligibility
Demonstration Program (Repealed)
- 160.64 Compromise of Assigned Obligations
- 160.65 Modification of Support Obligations

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section	
160.70	Enforcement of Support Orders
160.71	Credit for Payments Made Directly to the Title IV-D Client
160.75	Withholding of Income to Secure Payment of Support
160.77	Certifying Past-Due Support Information or Failure to Comply with a Subpoena or Warrant to State Licensing Agencies (Repealed)
160.80	Amnesty – 20% Charge (Repealed)
160.85	Diligent Efforts to Serve Process
160.88	State Case Registry
160.89	Interest

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section	
160.90	Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section	
160.95	State Disbursement Unit
160.100	Distribution of Child Support for TANF Recipients
160.110	Distribution of Child Support for Former AFDC or TANF Recipients Who Continue to Receive Child Support Services
160.120	Distribution of Child Support Collected While the Client Was an AFDC or TANF Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is Cancelled
160.130	Distribution of Intercepted Federal Income Tax Refunds
160.132	Distribution of Child Support for Non-TANF Clients
160.134	Distribution of Child Support For Interstate Cases
160.136	Distribution of Support Collected in IV-E Foster Care Maintenance Cases
160.138	Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section	
160.140	Quarterly Notice of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

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

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998; emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12737, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14560, effective December 1, 1999; amended at 24 Ill. Reg. 2380,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

effective January 27, 2000; amended at 24 Ill. Reg. 3808, effective February 25, 2000; emergency amendment at 26 Ill. Reg. 11092, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17822, effective November 27, 2002; amended at 27 Ill. Reg. 4732, effective February 25, 2003; amended at 27 Ill. Reg. 7842, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 12139, effective July 11, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18891, effective November 26, 2003; amended at 28 Ill. Reg. 4712, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 10225, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15591, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 2743, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10211, effective June 30, 2005; amended at 29 Ill. Reg. 14995, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 5426, effective March 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 8897, effective May 1, 2006; amended at 30 Ill. Reg. 13393, effective July 28, 2006; amended at 31 Ill. Reg. 12771, effective August 27, 2007; emergency amendment at 32 Ill. Reg. 543, effective January 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6511, effective March 31, 2008; amended at 32 Ill. Reg. 16805, effective October 6, 2008; amended at 33 Ill. Reg. 591, effective January 5, 2009; amended at 33 Ill. Reg. 9077, effective June 15, 2009; amended at 33 Ill. Reg. 12732, effective September 7, 2009; amended at 34 Ill. Reg. 6809, effective May 1, 2010; amended at 34 Ill. Reg. 15406, effective September 27, 2010; amended at 35 Ill. Reg. 2043, effective January 21, 2011; amended at 35 Ill. Reg. 4513, effective March 1, 2011; amended at 36 Ill. Reg. _____, effective _____.

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS**Section 160.65 Modification of Support Obligations**

- a) Definitions
 - 1) "Order for support" means any court or administrative order establishing the level of child support due to a child from the responsible relative.
 - 2) "Income Withholding Notice" means the notice served on a payor, pursuant to entry of a court or administrative order for support, that directs the payor to withhold a part of a responsible relative's income for payment of child support.
 - 3) "Assignment of support" has the meaning set forth in Section 160.5.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 4) "Assignment of medical support" has the meaning set forth in Section 160.5.
 - 5) "Health insurance" means health insurance or health plan coverage for the dependent child for whom support is sought.
 - 6) "Review" means the CSS comparison of the responsible relative's current financial ability to the existing order for support, as described in subsection (f) of this Section.
 - 7) "Quantitative Standard for Review" means the current financial ability of the responsible relative, as determined through modification review, is at least 20 percent above or below the existing order for support and the change is an amount equal to at least \$10 a month.
- b) Review and Modification of Support Orders
- 1) The Department, beginning October 13, 1993, shall review child support orders in Title IV-D cases at 36 month intervals after establishment, modification or the last review, whichever was the last to occur, unless:
 - A) In a case in which there is an assignment of support or an assignment of medical support, the Department determines, in accordance with subsection (b)(3) of this Section, that a review would not be in the best interests of the child and neither parent has requested a review; or
 - B) In a case in which there is no assignment of support or assignment of medical support, neither parent has requested a review; or
 - C) In a case in which there is an assignment of medical support but no assignment of support, the order for support requires health insurance for the child covered by the order and neither parent has requested a review.
 - 2) Prior to the expiration of the 36 month period:
 - A) The Department, in a case in which there is an assignment of support or an assignment of medical support, shall review the order

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

if:

- i) an order for withholding has been served on the responsible relative's payor, and payments have been received by the Department within the 90 days prior to selection for review; and
- ii) the order for support does not require the responsible relative to provide health insurance for the child covered by the order; and
- iii) the Department has not determined that a review would not be in the best interests of the child.

B) In any case in which an administrative order for support has been entered, the Department shall review the order if either the custodial parent or the non-custodial parent files a sworn petition with the Department requesting review and modification of the administrative order for support alleging:

- i) that the Quantitative Standard of Review has been met; or
- ii) that there has been a substantial change in circumstances since the entry of the last administrative order for support meriting modification of the existing order; or
- iii) both, unless the Department has determined that a review would not be in the best interests of the child. The Department, in a case in which there is no assignment of support or assignment of medical support, shall review orders as set forth in subsection (b)(2)(A) of this Section, but only with the consent of the client.

C) The Department may review any order for support, unless it has determined that a review would not be in the best interests of the child, whenever a change in financial circumstances of the responsible relative becomes known through representations of the relative or of the client or from independent sources, and such change would materially affect ability to support.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 3) The Department shall determine that a review of an order for support would not be in the best interests of the child if there has been a finding of good cause, and it has been determined that support enforcement may not proceed without risk of harm to the child or caretaker relative.
- c) Notice of the Right to Request a Review [or File a Petition](#)
- 1) In each Title IV-D case the Department shall provide notice not less than once every three years to each parent subject to an order for support in the case. The notice may be included in the order and shall inform the parent of the right to request a review of the order; [or, as appropriate, to file a petition to modify an administrative order](#), where to request a review [or file a petition](#), and the information that must accompany a request [or petition](#).
 - 2) The Department shall use the broadcast or print media at least twice a calendar year to publicize the right to request a review as part of the child support enforcement program, and include notice of this right as part of the information on IV-D services contained in its brochures, pamphlets and other printed materials describing the program.
- d) Notice of Review
- 1) The Department shall notify the client and responsible relative that a review will be conducted at least 30 days before commencement of the review.
 - 2) The notice of review shall:
 - A) Require completion of a form financial affidavit and return of the affidavit to the Department within 15 calendar days after the date the client or relative received the notice; and
 - B) State that if, as a result of the review, action is taken to modify the order for support, the Department will order or request the court to order the responsible relative to provide health insurance. However, in cases where the client is not receiving medical assistance, the notice shall state that health insurance may be

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

ordered or requested only with the client's consent, as provided in Section 160.60(c)(7).

- e) Information Gathering and Employer Contact
- 1) The Department shall capture all available responsible relative financial information from existing federal and State sources (for example, Illinois Department of Employment Security) through electronic data searches on all IV-D cases.
 - 2) The Department may send a notice to the responsible relative's employer, in accordance with Section 10-3.1 of the Illinois Public Aid Code [305 ILCS 5/10-3.1]. The notice shall:
 - A) require the disclosure of responsible relative employment information, including but not limited to:
 - i) the period of employment;
 - ii) the frequency of wage payments;
 - iii) gross wages, net pay and all deductions taken in reaching net pay;
 - iv) the number of dependent exemptions claimed by the responsible relative; and
 - v) health insurance coverage available to the responsible relative through the employer.
 - B) require employer compliance within 15 calendar days after the employer's receipt of the notice.
 - 3) If the responsible relative fails to return a completed financial affidavit within 15 calendar days after receipt of the notice of review, and the relative's employer is unknown, the Department may use available means for obtaining the relative's financial information, e.g., service of a subpoena upon the responsible relative.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- f) Review of the Order for Support
- 1) The CSS shall review any financial information concerning the responsible relative. Where the responsible relative's information is not verified through an employer, wage stubs or income tax returns, the CSS shall seek other verification, e.g., subpoena of the responsible relative's income tax return.
 - 2) The CSS shall determine the responsible relative's current financial ability in accordance with the guidelines contained in Section 160.60(c).
 - 3) The CSS shall compare the responsible relative's current financial ability to the amount of the existing order for support and determine if the Quantitative Standard for Review has been met.
 - 4) The CSS shall determine if health insurance is being provided for the child under the order for support or whether the child's health care needs are being met through other means. In no event shall the CSS consider a child's eligibility for, or receipt of, medical assistance to meet the need to provide for the child's health care needs.
- g) Notice of Review Results
- The Department shall inform the client and responsible relative of the results of the review and provide a copy of the CSS calculation comparing the responsible relative's current financial ability to the amount of the existing order within 14 days after the review results are determined. The client and responsible relative will be advised whether or not the Department will take action to modify the existing order for support and of the right to contest the determination.
- 1) When the review indicates the Quantitative Standard for Review has not been met, the client and responsible relative, in both judicial and administrative cases, are advised as follows:
 - A) The Department will not take action to modify the order for support.
 - B) The Department will only take action to modify the order to require health insurance for the child covered by the order.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- C) Either parent may request a redetermination within 30 calendar days after the date of the notice by:
- i) signing and returning the request for a redetermination to the Department; ~~and~~
 - ii) providing financial documentation or information concerning the child's health care needs not furnished previously, which will substantiate the request; ~~and-~~
 - iii) in a case in which the Department has previously entered an administrative order for support, alleging on the request for redetermination that a substantial change in circumstances has occurred since the entry of the last support order meriting a modification of the support order.
- 2) When the review indicates the Quantitative Standard for Review has been met, the client and responsible relative will be advised that:
- A) The Department will take action to modify the existing order for support in accordance with the review results.
 - B) In cases involving the judicial process, each parent will be informed 30 calendar days in advance of the hearing date and will have the opportunity to contest the review results at that time.
- 3) In cases in which an administrative order for support is entered in accordance with subsection (h) and in cases in which, after redetermination in accordance with subsection (h), the Department advises that it will take no action to modify an existing administrative order of support:
- A) The client and responsible relative will be advised that he or she has until 30 calendar days after the date of mailing of the administrative order for support or the notice of modification review redetermination results in which to request a de novo modification hearing in accordance with 89 Ill. Adm. Code 104.102. The client will be further advised that he or she may provide financial documentation or information concerning the

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

child's health care needs not furnished previously that will substantiate the requested relief.

- B) When both the client and the responsible relative request a hearing, the two requests shall be merged and shall be disposed of simultaneously by the hearing proceeding. The parties shall be advised of the right to present evidence at the hearing, including the client's right to provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate the requested relief.
- C) When the responsible relative requests a hearing and the client does not, the client shall again be advised of the right to present evidence at the hearing.
- D) When the client requests a hearing and the responsible relative does not, the responsible relative shall again be advised of the right to present evidence at the hearing.
- ~~C) In cases where an administrative order for support is entered in accordance with subsection (h) of this Section:~~
- ~~i) The client and responsible relative will be advised that he or she has until 30 calendar days after the date of mailing of the administrative order for support in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102. The client will be further advised that he or she may provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate the requested relief.~~
- ~~ii) Where both the client and the responsible relative request a hearing, the two requests shall be merged and shall be disposed of simultaneously by the hearing proceeding. The parties shall be advised of the right to present evidence at the hearing, including the client's right to provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

~~the requested relief.~~

~~iii) Where the responsible relative requests a hearing and the client does not, the client shall again be advised of the right to present evidence at the hearing.~~

~~iv) Where the client requests a hearing and the responsible relative does not, the responsible relative shall again be advised of the right to present evidence at the hearing.~~

~~43)~~ For purposes of calculating the 30 calendar day period in which to petition the Department for release from or modification of the administrative order for support or to request redetermination of the review results, the day immediately subsequent to the mailing of the order or determination shall be considered the first day and the day such request is received by the Department shall be considered as the last day.

~~5)~~ In de novo hearings provided for in subsection (g)(3) and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall determine whether the Quantitative Standard for Review has been met. If the hearing officer determines that the Quantitative Standard has not been met, determine, in accordance with Section 510 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510] and the opinions of the Illinois Supreme Court of the Illinois Appellate Court construing Section 510, whether the party or parties requesting a de novo hearing have demonstrated the occurrence of a substantial change in circumstances since entry of the last administrative order for support warranting modification of that order.

~~6)~~ If the Department's hearing officer determines that the Quantitative Standard for Review has not been met and that the party or parties requesting the hearing have demonstrated the occurrence of a substantial change in circumstances since entry of the last administrative order for support warranting modification of that order, the hearing officer will recommend entry of a final administrative decision finding that modification of the existing support order is not warranted and denying the request for entry of a new order.

~~7)~~ If the Department's hearing officer determines that the Quantitative Standard for Review has been met or that the party or parties requesting

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

the hearing have demonstrated the occurrence of a substantial change in circumstances since entry of the last administrative order for support warranting modification of that order, the hearing officer will recommend entry of a final administrative decision resulting in entry of a new administrative order for support. In recommending terms of the new administrative order, either for current support or, in the event a current support obligation is no longer owed and only past due support remains, periodic payments toward the past due support, the hearing officer shall calculate the new support terms in accordance with the provisions of 89 Ill. Adm. Code 160.60(c)(2).

8) After receipt of the hearing officer's recommendation as specified in subsections (g)(6) and (g)(7), the Department shall enter a final administrative decision that is reviewable in the Circuit Court only in accordance with the provisions of the Administrative Review law [735 ILCS 5/Art. III].

h) Further Actions Taken by the Department

- 1) The Department shall take the following action when the CSS has determined in accordance with subsection (f) of this Section that the Quantitative Standard for Review has been met or when the Quantitative Standard for Review has not been met, but there is a determination that the order for support needs to be modified to require provision of health insurance:
 - A) In a case involving an order for support entered by the court, the CSS shall:
 - i) prepare a petition to modify, and obtain or affix appropriate signature thereto;
 - ii) refer the case for legal action to modify the order for support pursuant to Section 510 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510]; and
 - iii) provide the client and responsible relative with the notice described in subsection (g)(2)(B) of this Section.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- B) In a case involving an administrative order for support established under Section 160.60(d), or modified under this Section, the CSS shall enter an administrative order for support incorporating the results of the review and containing the information specified in Section 160.60(d)(5). Any order for health insurance shall be entered in accordance with Section 160.60(c)(7).
- i) The CSS shall effect income withholding in accordance with Section 160.60(d)(6).
- ii) The CSS shall provide to the client and responsible relative copies of the administrative order for support together with the notice described in subsection (g)(2)(C) of this Section.
- 2) If the Department receives a written request for a de novo modification hearing upon receipt of a petition for a release from or modification of an administrative order for support as described in subsection ~~(g)(3)(g)(2)(C)~~ of this Section within 30 calendar days after the date of mailing of a modified administrative order for support or notice described in subsection (g)(3)(A), such order, the Department will provide a hearing in accordance with 89 Ill. Adm. Code 104.102. The 30 calendar day period shall be calculated in accordance with subsection ~~(g)(4)(3)~~ of this Section.
- 3) Upon receipt of a request for a redetermination as set forth in subsection (g)(1) of this Section within 30 calendar days after the date of mailing of the notice, the Department shall conduct such redetermination. The 30 calendar day period shall be calculated in accordance with subsection (g)(3) of this Section.
- i) Timeframes for Review and Modification
- 1) In any case in which there is an assignment of support or an assignment of medical support, the Department shall determine within 15 calendar days after October 13, 1993, or the date the order is 36 months old, whichever is later, whether a review should be conducted as provided in subsection (b)(1) of this Section.
- 2) Subsequent determinations about whether to review an order for support in a case in which there is an assignment of support or an assignment of

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

medical support shall be made by the Department in accordance with subsection (b)(1) of this Section, at 36 month intervals based upon:

- A) the date the order for support was modified; or
 - B) the date an order was entered determining that the order for support would not be modified; or
 - C) the date the period expired for requesting redetermination of the Department's review decision not to seek modification of the order for support.
- 3) Within 15 calendar days after receipt of a request for a review or sworn petition requesting review and modification of an administrative order for support, the Department shall determine whether a review should be conducted in accordance with subsection (b)(~~2~~) of this Section.
- 4) Within 180 calendar days after determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the Department shall:
- A) send the notice of review in accordance with subsection (d) of this Section;
 - B) conduct a review of the order in accordance with subsection (f) of this Section;
 - C) send the notice of review results in accordance with subsection (g) of this Section; and
 - D) conclude any action to modify the order for support.
- j) Interstate Review and Modification
- 1) Initiating Cases
 - A) In any case in which there is an assignment of support or an assignment of medical support, the Department shall determine, within 15 calendar days after October 13, 1993, or the date the

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

order for support is 36 months old, whichever date occurs later, whether a review should be conducted, as required under subsection (b)(1) of this Section, and whether the review should be conducted by the Department or another state.

- B) Subsequent determinations about whether to conduct a review shall be made in accordance with subsection (b)(1) of this Section, at 36 month intervals based upon:
- i) the date the order for support was modified; or
 - ii) the date an order was entered determining that the order for support would not be modified; or
 - iii) the date the period expired for requesting redetermination of a review decision not to seek modification of the order for support.
- C) Within 15 calendar days after receipt of [a sworn petition requesting review and modification of an administrative order for support or an intergovernmental](#) request for a review, the Department shall determine whether a review should be conducted, as required under subsection (b)(1) of this Section, and whether the review should be conducted by the Department or another state.
- D) Prior to the expiration of the 36 month period, the Department:
- i) shall review or request another state to review an order for support under the circumstances set forth in subsections (b)(2)(A) and (B) of this Section; and
 - ii) may review or request another state to review an order for support as provided in subsection (b)(2)(C) of this Section.
- E) The Department shall determine in which state a review should be conducted after considering all relevant factors, including but not limited to:
- i) the location of existing orders;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- ii) the present residence of each party; and
 - iii) whether a particular state has jurisdiction over the parties.
- F) In any case coming under the provisions of subsections (j)(1)(A), (B) and (C) of this Section, in which the Department has determined to request a review of an order for support in another state, the Department shall:
- i) send a request for review to that state within 20 calendar days after receipt of sufficient information to conduct the review and provide that state with sufficient information on the requestor of review to act on the request; and
 - ii) send to the parent in Illinois a copy of any notice issued by the responding state in connection with the review and modification of the order, within five working days after receipt of such notice by the Department.
- 2) Responding Cases
- A) Within 15 calendar days after receipt of a request for a review of an order for support in Illinois as the responding state, the Department shall determine whether a review should be conducted in accordance with subsection (b)(1) of this Section.
 - B) Within 180 calendar days after determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the Department shall take the actions specified in subsection (i)(4) of this Section.
- k) Consolidation of Administrative Orders
Notwithstanding any other provision of this Section, at any time the Department determines that a non-custodial parent subject to an administrative order for support is responsible for any child or children residing with the same custodian, other than the child for whom the administrative order for support imposes a support obligation, the Department may enter a new support order for the children subject to notice requirements and determination of financial ability to pay

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

support set forth in Section 160.60. Any order so entered shall be considered a prospective modification of any administrative order or orders for support previously entered by the Department with regard to the children covered by the new order subject to the same right of review as any other modified administrative order for support.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.70 Enforcement of Support Orders

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

the child is living in an amount not less than \$150. The Department may combine assigned support amounts from the same obligor in multiple cases to reach the minimum amount of \$150 for TANF, AFDC and Foster Care cases; however, amounts under this subsection (b)(2)(A)(i) may not be combined with amounts under subsection (b)(2)(A)(ii) to reach the minimum amounts required for submittal; and

- ii) in IV-D non-TANF cases, past-due support owed to or on behalf of a child, or a child and the parent with whom the child is living if the same support order includes support for the child and the parent, and the amount of past-due support is not less than \$500. The Department may combine non-assistance support amounts from the same obligor in multiple cases to reach the minimum amount of \$500; however, amounts under this subsection (b)(2)(A)(ii) may not be combined with amounts under subsection (b)(2)(A)(i) to reach the minimum amounts required for submittal.

B) the Illinois Department of Revenue to intercept State income tax refunds and the Comptroller to intercept other State payments as follows:

- i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or \$25, whichever is less;
- ii) in inactive IV-D TANF or AFDC and IV-D foster care cases, past-due support owed in any amount; and
- iii) in cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of those circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

withholding provisions of the support statutes.

- 3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount that will be submitted for intercept, and that any additional past due support that accumulates will be subject to collection by the Department without further notice;
 - C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:
 - i) a redetermination by the Department or, after such redetermination,
 - ii) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and
 - D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund that may be payable to that spouse, in the case of a joint federal income tax return.
- 4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.
- 5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest those results by requesting:
 - A) a hearing by the Department within 1530 days after the date of

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

mailing of the notice; or

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

amount intercepted found to exceed the amount of past-due support owed; and

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

D cases through intercept of unemployment insurance benefits in matters wherein the relative has accumulated a past-due support amount equal to a one-month support obligation.

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- i) imposition of a lien against real estate,
 - ii) levy upon real estate and personal property, or
 - iii) registration in another state;
- C) secure an order for lump sum or periodic payment of the past-due support or judgment;
- D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;
- E) obtain full or partial payment of past due support through incarceration;
- F) ascertain the responsible relative's source and amount of income or location and value of assets;
- G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;
- H) secure other enforcement relief; and
- I) obtain any combination of the above.
- 4) During the course of contempt or other legal proceedings to enforce support, if it shall appear that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving TANF in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives under Section 9-6 of the Illinois Public Aid Code [305 ILCS 5/9-6].
- 5) In TANF cases, the Department shall request the court to order payment of

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].

- e) Liens Against Real Estate and Personal Property – Judicial Enforcement of Order for Support
 - 1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII].
 - 2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:
 - A) the past-due amount is at least \$3,500; and
 - B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.
 - 3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy or memorandum of judgment in the county where the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]).
 - 4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]) when the relative has a known equity that is not less than \$3,500 in excess of any statutory exemption.
- f) Liens Against Real Estate and Personal Property – Administrative Enforcement of

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Order for Support

- 1) Liens against real estate
 - A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:
 - i) the amount of past-due support is at least \$3,500; and
 - ii) the responsible relative has an interest in real estate against which a lien may be claimed.
 - B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative and recorded or filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative is located. The notice shall inform the responsible relative and the Recorder or Registrar of Titles of the following:
 - i) the name and address of the responsible relative;
 - ii) a legal description of the real estate to be levied;
 - iii) the amount of past-due support to be satisfied by the levy;
 - iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative; and
 - v) the right to prevent action against the real property by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a hearing by the Department.
 - C) A written request for hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (f).

- D) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
 - E) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
 - F) The lien shall be enforced against the real estate in accordance with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative has a known equity in the real estate that is not less than \$3,500 in excess of any statutory exemption.
- 2) Liens against personal property
- A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:
 - i) the amount of past-due support is at least \$1,000;
 - ii) the responsible relative has an interest in personal property against which a lien may be claimed; and
 - iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of at least \$300.
 - B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative, any joint owner of whom the Department has knowledge and location information, the financial institution in which an account of the responsible relative is located, the sheriff of the county in which goods or chattels of

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

the responsible relative are located, or any person or entity indebted to or holding personal property of the responsible relative or who may be liable for payment of money in connection with a claim or cause of action of the responsible relative. The notice shall contain the following:

- i) the name and address of the responsible relative;
 - ii) a description of the account or personal property to be levied;
 - iii) the amount of past-due support to be satisfied by the levy;
 - iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative;
 - v) the right of the responsible relative to prevent levy upon the personal property, including accounts, by payment of the past-due support amount in full or by contesting the determination that past-due support is owed or the amount of past-due support by requesting a hearing within 15 days after the date of mailing of the Notice of Lien or Levy; and
 - vi) the right of a joint owner to prevent levy upon his or her share of the account or other personal property or to seek a refund of his or her share of the account or other personal property already levied, by requesting, within 15 days after the date of mailing of the Notice of Lien or Levy to the joint owner, a hearing by the Department to determine his or her share of the account or other personal property. A joint owner who is not provided with a Notice of Lien or Levy by the Department may request a hearing by the Department within 45 days after the date of levy of the account or other personal property.
- C) In addition to the information to be included in the Notice of Lien or Levy under subsection (f)(2)(B), the Notice of Lien or Levy provided to a financial institution shall:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- i) state that the lien is subordinate to any prior lien or prior right of set-off that the financial institution may have against the assets, or in the case of an insurance company or benefit association only in the accounts as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24];
 - ii) state that upon being served with the Notice of Lien or Levy that the financial institution shall encumber the assets in the account, and surrender and remit those assets within five days after being served with a Notice to Surrender Assets by the Department;
 - iii) state that the financial institution may charge the responsible relative's account a fee of up to \$50, and that the amount of any fee be deducted from the account before remitting any assets from the account to the Department;
~~and~~
 - iv) include a form, Response to Notice of Lien or Levy, to be completed by the financial institution and returned to the Department within 30 days after receipt of the Notice of Lien or Levy; ~~and-~~
 - v) include the federal Notice of Right to Garnish Federal Benefits stating that procedures established under 31 CFR 212 for identifying and protecting federal benefits deposited to accounts at financial institutions do not apply to the Notice of Lien or Levy issued by the Department.
- D) The form for the response to Notice of Lien or Levy provided for under subsection (f)(2)(C)(iv) of this Section shall include provisions for the financial institution to complete stating:
- i) the amount of assets in the responsible relative's account;
 - ii) the amount of the fee to be deducted from the account;
 - iii) the amount of assets in the account subject to a prior lien or

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- prior right of set-off of the financial institution;
- iv) the name and address of any joint owners of the account;
and
 - v) the amount of assets surrendered and remitted to the
Department.
- E) A written request for a hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from levying upon the personal property, although the lien shall remain in effect during the pendency of any appeal taken pursuant to this subsection (f).
- F) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative's written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- G) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner's written request for a hearing.
- H) The Department, upon determining a joint owner's share of the personal property or account, shall release the lien against the personal property or account to the extent of the joint owner's share. If the Department's determination of the joint owner's share occurs after the personal property or account has been levied, the Department shall refund the joint owner's share of the personal property or account.
- I) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- J) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

locate personal property of responsible relatives, the Department shall return to financial institutions data that does not relate to a responsible relative whose personal property may be subject to lien or levy under this subsection (f).

- g) Security, Bond or Other Guarantee of Payment
- 1) Except as provided in subsections (g)(2) and (3) of this Section, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security, bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code [305 ILCS 5/10-17.4].
 - 2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security, bond or give some other guarantee of payment. Except where the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.
 - 3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a prayer for an order requiring the responsible relative to post security, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.
- h) Past-Due Support Information to Consumer Reporting Agencies
- 1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (b)(2)(A) of this Section:
 - A) the name, last known address and Social Security Number of the

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

responsible relative; and

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- B) payment in full of the amount of the past-due support stated in the:
 - i) advance notice, or
 - ii) notice of redetermination or hearing results.
- 6) The Department shall advise consumer reporting agencies of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.
 - i) High-Volume Automated Administrative Enforcement in Interstate Cases
 - 1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of such enforcement activity to the requesting state.
 - 2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states, and seize those assets through levy or other appropriate processes.
 - 3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:
 - A) Include information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.
 - B) Constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.
 - 4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of the other state.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 5) The Department shall maintain records of:
 - A) The number of requests for assistance received by the Department.
 - B) The number of cases for which the Department collected support in response to a request and the actual amount of support collected.

- j) Past-Due Support Certified to the Illinois Department of Revenue, to municipalities or to the IV-D Agency of Another State for Administrative Enforcement in the Other State
 - 1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Illinois Public Aid Code [305 ILCS 5/10-17.9]), to municipalities with ordinances to immobilize and impound vehicles for non-payment of child support (see Section 10-17.3 of the Illinois Public Aid Code [305 ILCS 5/10-17.3]) or to another state's IV-D agency for administrative enforcement where the responsible relative has property in the other state.

 - 2) The Department may certify past-due support amounts to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:
 - A) past-due support is owed for a child or for a child and the parent with whom the child is living;
 - B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3) of this Section;
 - C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and
 - D) the responsible relative is not deceased.

 - 3) The Department shall provide the responsible relative with a notice prior

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

to certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state, which advance notice shall inform the responsible relative of the following:

- A) the IV-D case name and identification number;
 - B) the past-due support amount that will be submitted for collection;
 - C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and
 - D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.
- 4) Factors for a satisfactory repayment plan will include, but are not limited to:
- A) the amount of past-due support owed;
 - B) the amount to be paid toward the past-due amount;
 - C) the amount of current child support obligations; and
 - D) the individual's ability to pay.
- 5) The Department shall provide the Illinois Department of Revenue, municipalities or the IV-D agency of another state for administrative enforcement in the other state, the following descriptive information on the responsible relative:
- A) name;
 - B) Social Security Number;
 - C) IV-D identification number; and
 - D) the past-due support amount.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state.
- 7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest those results by making a written request for a hearing by the Department within 1530 days after the date of mailing of the notice.
- 8) A written request for hearing made within 1530 days after the date of mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6) of this Section.
- 9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.
- 10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- 11) The Department shall:
 - A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligation; or
 - B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, which is still in the possession of the Department.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- k) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports
- 1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds \$2,500:
 - A) the name, last known address and Social Security Number of the responsible relative; and
 - B) the terms and amount of past-due support that has accumulated under the order for support.
 - 2) The Department shall provide the responsible relative with a notice at least 15 days prior to certifying past-due support to the Secretary of Health and Human Services, which advance notice shall inform the relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount that will be certified;
 - C) the date past-due support will be certified; and
 - D) the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
 - 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.
 - 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:
 - A) a request for:
 - i) a redetermination, or
 - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
 - B) payment in full of the amount of the past-due support stated in the:
 - i) advance notice, or
 - ii) notice of redetermination or hearing results.
 - 6) The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.
- 1) List of Responsible Relatives
 - 1) Any list of responsible relatives owing past-due support to be disclosed pursuant to Section 12-12.1 of the Illinois Public Aid Code [305 ILCS 5/12-12.1] shall be developed as required by this subsection (1).
 - 2) The list shall include no more than 200 responsible relatives at any given time, shall include only responsible relatives owing \$5,000 or more in past-due support accumulated under Illinois court or administrative support orders, and shall include, but is not limited to, the following information about each responsible relative:
 - A) the name of the responsible relative;
 - B) the responsible relative's last known address; and
 - C) the amount of past-due support as of a given date, expressed within a range (for example, \$50,000-\$100,000), that has accumulated under the support order.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 3) The Department shall make the list available for public inspection at its offices or by other means of publication, including the Internet.
- 4) The Department shall send an advance notice by certified mail to the responsible relative at his or her last known address at least 90 days prior to publishing past-due support information. The advance notice shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount as of a given date;
 - C) the earliest date by which past due support information will be published;
 - D) the right to contest the determination that past-due support is owed or the amount of past-due support by submitting a written request to the Department for a hearing within 15~~no later than 10~~ days after~~before~~ the date of mailing of~~publication stated in~~ the advance notice; and
 - E) that within 60 days from the date of delivery or refusal of the advance notice, the responsible relative may avoid publication of the past-due support information by paying the past-due support in full, or by establishing and complying with a satisfactory payment plan as determined by the Department.
- 5) Factors for a satisfactory payment plan will include, but are not limited to:
 - A) the amount of past-due support owed;
 - B) the amount to be paid toward the past-due support;
 - C) the amount of the current support obligations; and
 - D) the responsible relative's ability to pay.
- 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.101 and 104.103 upon receipt of a request for a hearing.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 7) The Department shall be stayed from publishing past-due support information regarding the responsible relative by any of the following:
- A) a timely written request for hearing from the responsible relative regarding the existence or amount of past-due support stated in the advance notice; or
 - B) as of the date of publishing, a pending judicial review of a final administrative decision of the Department issued pursuant to this subsection [\(1\)\(7\)](#).
- m) Certification to the Illinois Secretary of State for Driver's License Suspension
- 1) The Department shall issue a Notice of Intent to Request Suspension of an Illinois Driver's License to a responsible relative in accordance with Section 10-17.6 of the Illinois Public Aid Code [305 ILCS 5/10-17.6] and Section 7-702 of the Illinois Vehicle Code [625 ILCS 5/7-702], when the following circumstances exist:
 - A) the amount of past-due support is at least \$2500, and the responsible relative has not made a voluntary payment of support in the last 90 days; or
 - B) the responsible relative has failed to comply with a subpoena or warrant in a paternity or child support proceeding.
 - 2) The Notice of Intent to Request Suspension of an Illinois Driver's License shall contain the following:
 - A) the IV-D case name and identification number;
 - B) the past due support amount and the amount of interest that will be certified;
 - C) the date of issuance of any subpoena or warrant in a paternity or child support proceeding with which the responsible relative has failed to comply;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- D) the right of the responsible relative to prevent certification to the Secretary of State for driver's license suspension by payment of the past-due support amount and interest in full or by entering into a payment plan satisfactory to the Department or to contest the amount of past-due support and interest that is owed by requesting a hearing by the Department within 15 days after the date of mailing by the Department; and
 - E) the right of the responsible relative to prevent certification to the Secretary of State for failure to comply with a subpoena or warrant in a paternity or child support proceeding by complying with the subpoena or warrant or to contest the determination of the failure to comply with the subpoena or warrant by requesting a hearing by the Department within 15 days after the date of mailing by the Department.
- 3) Factors for an acceptable payment plan will include, but are not limited to:
- A) the amount of past due support and interest owed;
 - B) the amount of current child support ordered to be paid; and
 - C) the responsible relative's ability to pay.
- 4) The responsible relative's commencement of periodic payments on the past due support amount owed in compliance with a court or administrative order entered prior to the date of the Notice of Intent to Request Suspension of an Illinois driver's license shall be deemed by the Department to be a satisfactory payment plan.
- 5) A written request for hearing made within 15 days after the date of mailing of the Notice of Intent to Request Suspension of an Illinois Driver's License shall stay the Department from certifying past-due support and interest, or failure to comply with a subpoena or warrant, to the Secretary of State.
- 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 7) Following certification to the Secretary of State for driver's license suspension and upon request of the responsible relative, the Department shall direct the Secretary of State to issue a family financial responsibility driving permit in accordance with Section 10-17.6(b) of the Illinois Public Aid Code [305 ILCS 5/10-17.6(b)] and Section 7-702.1(b) of the Illinois Vehicle Code [625 ILCS 5/7-702.1(b)], when the following circumstances exist requiring the responsible relative to operate a motor vehicle:
 - A) between the responsible relative's residence and place of employment, or within the scope of employment related duties, as verified by the employer in writing; or
 - B) for the purpose of providing transportation for the responsible relative or a household member to receive alcohol treatment, other drug treatment, or medical care as verified in writing by the treatment center or physician that includes the duration of treatment; or
 - C) for the purpose of the unemployed responsible relative seeking employment.
- 8) When directing the issuance of a family financial responsibility driving permit for the purpose of seeking employment under subsection (m)(7)(C) of this Section, the Department shall require that:
 - A) the permit be limited to Monday through Friday between the hours of 8:00 a.m. and 12:00 p.m. (noon) unless the responsible relative provides written documentation showing that to so limit the hours of the permit would have an adverse effect on the responsible relative's ability to seek employment; and
 - B) the responsible relative provides to the Department a job search diary every 30 days showing contact with no fewer than 10 potential employers during a 30 day period.
- 9) The maximum duration of a family financial responsibility driving permit shall be one year from the date of issuance by the Secretary of State, with

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

the ability of the responsible relative to request issuance of a new permit after the initial permit has expired.

- 10) The Department may direct the issuance of a family financial responsibility driving permit to the responsible relative only if no alternative means of transportation is reasonably available for the purposes stated in this subsection (m).
 - 11) The Department shall direct the Secretary of State to cancel the family financial responsibility driving permit in the event the responsible relative violates the conditions of its issuance.
 - 12) Any responsible relative aggrieved by the Department's determination on a request for issuance of a family financial responsibility driving permit may file a written request for hearing within 15 days after the date of mailing of the results of the determination to the responsible relative. The Department shall proceed in accordance with 89 Ill. Adm. Code 104.106 upon receipt of a request for hearing.
- n) Certifying Past Due Support or Failure to Comply with a Subpoena or Warrant to State Professional, Occupational or Recreational Licensing Agencies
- 1) The Department shall issue a Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License to a responsible relative when the following circumstances exist:
 - A) the amount of past due support is at least \$1,000, and the responsible relative has not made a voluntary payment of support in the last 90 days; or
 - B) the responsible relative has failed to comply with a subpoena or warrant in a paternity or child support proceeding.
 - 2) The Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- B) the past due support amount and the amount of interest that will be certified;
 - C) the date of issuance of any subpoena or warrant in a paternity or child support proceeding with which the responsible relative has failed to comply;
 - D) the right of the responsible relative to prevent certification to the licensing agency by payment of the past due support amount and interest in full or by entering into a payment plan satisfactory to the Department, or to contest the amount of past due support and interest owed by requesting a hearing by the Department within 15 days after the date of mailing by the Department; and
 - E) the right of the responsible relative to prevent certification to the licensing agency for failure to comply with a subpoena or warrant in a paternity or child support proceeding by complying with the subpoena or warrant, or to contest the determination of the failure to comply with the subpoena or warrant by requesting a hearing by the Department within 15 days after the date of mailing by the Department.
- 3) Factors for an acceptable payment plan will include, but are not limited to:
- A) the amount of past due support and interest owed;
 - B) the amount of current child support ordered to be paid; and
 - C) the responsible relative's ability to pay.
- 4) The responsible relative's commencement of periodic payments on the past due support amount owed in compliance with a court or administrative order entered prior to the date of mailing of the Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall be deemed by the Department to be a satisfactory payment plan.
- 5) A written request for hearing made within 15 days after the date of mailing of the Notice of Intent to Request Revocation, Suspension or

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Denial of a Professional, Occupational or Recreational License shall stay the Department from certifying past due support and interest or failure to comply with a subpoena or warrant to the licensing agency.

- 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a timely written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- o) Debit Authorization for Obligor's Who Are Not Subject to Income Withholding
- 1) The Department shall adopt a child support enforcement debit authorization form that, upon being signed by an obligor, authorizes the State Disbursement Unit to debit the obligor's financial institution account periodically in an amount equal to the amount of the child support obligation.
 - 2) The Department shall, upon adoption, inform each financial institution conducting business in this State that the child support enforcement debit authorization form has been adopted and is ready for use.
 - 3) The child support enforcement debit authorization form shall include instructions concerning the debiting of accounts held on behalf of obligors and the transfer of the debited amount to the State Disbursement Unit.
 - 4) When an obligor does not have a payor, as defined in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15], he or she must sign a child support enforcement debit authorization form. The obligor must sign a separate child support enforcement debit authorization form for each financial institution holding an account on his or her behalf in which a child support payment is to be debited and transferred to the State Disbursement Unit.
 - 5) The signing and issuance of a child support enforcement debit authorization form does not relieve the obligor from responsibility for compliance with any requirement under the order for support.
 - 6) It is the responsibility of the obligor to notify the State Disbursement Unit in accordance with the instructions provided on the child support enforcement debit authorization form.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

p) Other Remedies

Except for those administrative orders providing solely for payment of past due support, the The Department shall pursue any other remedies provided for by law to enforce and collect past-due support owed by responsible relatives in IV-D cases.

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

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Electronic Filing of Returns or Other Documents
- 2) Code Citation: 86 Ill. Adm. Code 760
- 3)

<u>Section Number:</u> 760.100	<u>Proposed Action:</u> Amendment
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- 4) Statutory Authority: 35 ILCS 120/3; 20 ILCS 2505/2505-795
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking provides that persons who sell alcoholic liquor and are required to file a monthly statement of liquor purchases as provided in Section 3 of the Retailers' Occupation Tax Act and 86 Ill. Adm. Code 130.552, must file the monthly statement on an ST-1 Return that is filed by electronic means in accordance with the provisions of Part 760. This rulemaking is part of an effort to repeal the Department's telefile program for liquor retailers. These amendments provide that electronic filing is required for returns due on and after February 1, 2012. The rules provide, however, that a taxpayer may petition the Department for a waiver of the electronic filing requirement. The Department has made this accommodation for taxpayers that demonstrate they do not have access to the Internet.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part: Yes

<u>Section Number:</u> 760.100	<u>Proposed Action:</u> Amendment	<u>Illinois Register Citation:</u> 35 Ill. Reg. 16437; October 14, 2011
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- 11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:
- Jerilynn Troxell Gorden
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
- 217/782-2844
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Liquor retailers will be affected by this rulemaking.
- B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping
- C) Types of professional skills necessary for compliance: Bookkeeping; computer skills
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not on the July 2011 Agenda because it was unanticipated at the time.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 760

ELECTRONIC FILING OF RETURNS OR OTHER DOCUMENTS

Section

760.100	Electronic Returns
760.110	Exclusions from Electronic Filing
760.120	Where to Send Electronic Returns (Repealed)
760.200	Ways to Participate in Electronic Filing
760.210	Enrollment in the Electronic Filing Program
760.220	Electronic Payment Required
760.230	Electronic Signatures
760.240	Due Dates and Date Received
760.300	Responsibilities of Electronic Filers
760.310	Filing Acknowledgments
760.320	Electronic Payment Acknowledgments
760.330	Termination of Voluntary Participants

AUTHORITY: Implementing and authorized by Section 2505-200 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-200].

SOURCE: Adopted at 22 Ill. Reg. 14905, effective August 3, 1998; amended at 27 Ill. Reg. 14636, effective August 26, 2003; amended at 30 Ill. Reg. 11590, effective June 26, 2006; amended at 35 Ill. Reg. 529, effective December 21, 2010; amended at 35 Ill. Reg. 16737, effective September 29, 2011; amended at 36 Ill. Reg. _____, effective _____.

Section 760.100 Electronic Returns

- a) The Department has mandatory electronic filing programs and voluntary programs for certain returns and other documents that are required to be filed with the Department. Upon acceptance into the program, the returns, schedules, and other documents listed in this Section may be electronically filed with the Department.
- b) An electronic return or other document consists of data transmitted to the Department electronically, and may include paper documents that contain

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

information that cannot be electronically transmitted or are requested for verification. In total, electronic returns must contain the same information as traditionally filed paper documents.

c) Mandatory Programs

- 1) Beginning January 1, 2003, telecommunications providers who have average monthly tax billings for the immediately preceding calendar year that exceed \$1000 must file their tax returns and supporting schedules electronically. Paper documents that contain information that cannot be electronically provided or are requested for verification must be mailed to the Department. The following circumstances require paper documentation:
 - A) When a final return is electronically filed, the taxpayer must also mail a statement explaining the reasons for a final return (e.g., business sold or discontinued).
 - B) When a return and payment are made in protest in accordance with Section 2a.1 of the State Officers and Employees Money Disposition Act [30 ILCS 230/2a.1], the corresponding notice must be mailed to the Department.
 - C) When the taxpayer wishes to notify the Department of a change of address, the taxpayer must notify the Department by telephone or by mailing such change to the Department.
- 2) Beginning January 1, 2003, cigarette distributors with 30 or more invoice transactions per month and who are not voluntarily filing returns and schedules by electronic means are required to file supporting schedule data with the Department on computer-generated magnetic media in a format prescribed by the Department.
- 3) Beginning with calendar year 2011, each income tax return preparer who is required during the calendar year to file by electronic means any federal income tax return for any individual or individuals and who prepared more than 100 Illinois income tax returns for individuals during the preceding calendar year is required during the calendar year to file by electronic means any Illinois income tax returns he or she prepares for the same

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

individual or individuals for the same taxable year for which the preparer filed a federal income tax return during that calendar year. This subsection (c)(3) does not require electronic filing of amended returns or of returns of trusts or estates, or of any return the Department has announced cannot be filed by electronic means.

- 4) Beginning with returns required to be filed for taxable years ending on or after December 31, 2011, any taxpayer required to file its federal income tax return by electronic means is required to file its equivalent Illinois income tax return for the same taxable year by electronic means. This subsection (c)(4) does not require electronic filing of amended returns or of returns of individuals or estates, or to any return the Department has announced cannot be filed by electronic means.

- 5) Beginning with returns due on and after February 1, 2012, any person engaged in the business of selling alcoholic liquor at retail through a liquor store, tavern or restaurant and is required to file the monthly statement required by Section 3 of the Retailers' Occupation Tax [35 ILCS 120/3] and 86 Ill. Adm. Code 130.552, shall file that statement on a Form ST-1 Return by electronic means in accordance with the provisions of this Part. Upon petition by a taxpayer, the Department may waive the electronic filing requirement if the taxpayer demonstrates that it does not have access to the Internet.

d) Voluntary Programs

- 1) Taxpayers may volunteer to participate in any electronic filing program currently in effect for mandatory electronic filers.
- 2) Form ST-1, Sales and Use Tax Return, and Form ST-2, Multiple Site attachment for Form ST-1, can be transmitted electronically under the provisions of this Part.
- 3) Beginning January 1, 2003, original or amended liquor tax returns and schedules for Liquor Tax participants may be filed electronically under the provisions of this Part.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- A) Paper documents that contain information that cannot be electronically provided or are requested for verification must be mailed to the Department. They include:
 - i) Copies of schedules, invoices or bills of lading requested for verification in accordance with Section 8-2 of the Liquor Control Act of 1934 [235 ILCS 5/8-2].
 - ii) Non-Beverage User permits.
- B) Beginning January 1, 2003, persons filing liquor tax returns and schedules electronically must also make payments by means of electronic funds transfer. See Section 760.220 of this Part. By doing so, the taxpayer is entitled to a discount of 1.75% of the tax due, or \$1,250, whichever is less, provided that the electronic return and payment are made timely in accordance with this Part.
- C) Liquor tax participants may file their returns and schedules using magnetic media in a format prescribed by the Department. Liquor tax participants that file returns and schedules on magnetic media are not entitled to the discount provided for in subsection (d)(3)(B) of this Section.
- 4) Beginning January 1, 2003, original or amended cigarette tax returns and schedules for Cigarette Tax participants may be filed electronically under the provisions of this Part.
- 5) Illustrations of When Paper Documents Must Be Filed
 - A) In the event a final return is electronically filed, the taxpayer must also mail a statement explaining the reasons for a final return (e.g., business sold or discontinued).
 - B) In the event a return and payment are made in protest in accordance with Section 2a.1 of the State Officers and Employees Money Disposition Act [30 ILCS 230/2a.1], the corresponding notice must be mailed to the Department.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- C) In the event the taxpayer wishes to notify the Department of a change of address, the taxpayer must notify the Department by telephone or by mailing such change to the Department.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: TeleFile Program
- 2) Code Citation: 86 Ill. Adm. Code 770
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
770.100	Repeal
770.105	Repeal
770.110	Repeal
770.120	Repeal
770.130	Repeal
770.140	Repeal
770.150	Repeal
- 4) Statutory Authority: 20 ILCS 2505/2505/200; 35 ILCS 120/3
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking repeals both the Department's mandatory and voluntary sales tax TeleFile Program.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Jerilynn T. Gorden
Deputy General Counsel – Sales & Excise Taxes
Illinois Department of Revenue

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses that participate in the Department's voluntary TeleFile Program for sales taxes will be affected; this repeal will also affect liquor retailers that are required to telefile their ST-1 tax returns and include a monthly statement of alcoholic liquor purchases.
 - B) Reporting, bookkeeping or other procedures required for compliance: Persons participating in the voluntary Telefile Program for sales and use taxes must either file electronically or on paper. Liquor retailers required to file monthly statements of liquor purchases must file electronically. General bookkeeping, computer skills, if filing electronically.
 - C) Types of professional skills necessary for compliance: Tax, accounting
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not on the last Regulatory Agenda because it was unanticipated at the time.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 770
TELEFILE PROGRAM ([REPEALED](#))

Section	
770.100	Voluntary TeleFile Program
770.105	Mandatory TeleFile Program
770.110	Exclusions from TeleFile
770.120	How to Participate
770.130	Personal Identification Number (PIN)
770.140	Confirmation Numbers
770.150	Due Dates and Date Received

AUTHORITY: Implementing and authorized by Section 2505-200 of Civil Administrative Code of Illinois [20 ILCS 2505/2505-200].

SOURCE: Adopted at 24 Ill. Reg. 8384, effective June 2, 2000; emergency amendment at 27 Ill. Reg. 18924, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9670, effective June 23, 2004; amended at 30 Ill. Reg. 11596, effective June 26, 2006; repealed at 36 Ill. Reg. _____, effective _____.

Section 770.100 Voluntary TeleFile Program

- a) The Department has created a voluntary TeleFile program for certain tax returns. The Department will notify potential participants that they may voluntarily participate in the TeleFile program and TeleFile any of the returns listed in subsection (c) of this Section.
- b) "TeleFile" consists of a taxpayer using a touch-tone telephone to call a telephone number provided by the Department and reporting return information through the use of the number keys on the touch-tone telephone in response to an automated voice prompt system.
- c) The following type of return may be filed through the use of this voluntary TeleFile program: Form ST-1 Sales and Use Tax Return.
- d) The Department reserves the right to limit the number of participants in this

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

voluntary TeleFile program if the level of participation either exceeds or is expected to exceed the Department's resources available for the program.

- e) Requirements for participation in the voluntary TeleFile program:
 - 1) The taxpayer must have on file with the Department of Revenue a properly completed Form NUC-1 Illinois Business Registration with an individual listed as the person responsible for the filing of the returns and the payment of taxes due;
 - 2) The taxpayer must be a single-site filer (has only one Illinois location from which retail sales are made); and
 - 3) The taxpayer must not be required to make quarterly monthly payments under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act.

Section 770.105 Mandatory TeleFile Program

- a) The Department has created a Mandatory TeleFile program for certain tax returns. The Department will notify participants that they must participate in the Mandatory TeleFile program and TeleFile the returns listed in subsection (c) of this Section.
- b) "TeleFile" consists of a taxpayer using a touch-tone telephone to call a telephone number provided by the Department and reporting return information through the use of the number keys on the touch-tone telephone in response to an automated voice prompt system.
- c) The following type of return must be filed through the use of this mandatory TeleFile program: Form ST-1 Sales and Use Tax Returns filed by liquor retailers that are required to provide a statement of the total amount of alcoholic liquor purchased by that liquor retailer during the previous month as required by 86 Ill. Adm. Code 130.552.
- d) Returns from taxpayers who are required to make quarter monthly payments under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act are excluded from this mandatory TeleFile program.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

- e) Taxpayers who are filing the returns listed in subsection (c) of this Section by means of the Department's electronic filing program under Part 760 are excluded from this mandatory TeleFile program for the period in which they are filing those returns under the provisions of 86 Ill. Adm. Code 760.

Section 770.110 Exclusions from TeleFile

The following types of returns are excluded from this TeleFile program:

- a) Returns that are not listed in Section 770.100(c) or Section 770.105(c).
- b) Returns listed in Section 770.100(c) or returns listed in Section 770.105(c) that require additional forms or schedules, or that require the reporting of information that the Department is unable to currently accept through the TeleFile program.

Section 770.120 How to Participate

- a) Taxpayers whose participation is voluntary will receive the necessary information packet from the Department as they become eligible to file the returns listed in Section 770.100(c). Taxpayers whose participation is mandatory will be notified by the Department that they are required to file the returns listed in Section 770.105(c), and will also receive the necessary information packet. Participants must call the telephone number in the information packet provided.
- b) Participants must enter their Illinois Business Tax number (IBT number) and a Personal Identification Number (PIN) issued by the Department that will allow them access to the TeleFile system.
- c) Participants will enter their information in accordance with the TeleFile instruction sheet provided by the Department through the use of the number keys on a touch-tone telephone in response to an automated voice prompt system.
- d) At the end of a successfully completed TeleFile filing, the automated voice prompt system will confirm the return has been filed with the Department by issuing a confirmation number as provided in Section 770.140 of this Part.
- e) Any balance due on a return filed through the use of TeleFile must be paid by the due date in the same manner as if the return was filed in a paper format. For example, a check for the proper amount due may be mailed to the Department or

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

payment may be made through the use of electronic funds transfer (see 86 Ill. Adm. Code 750).

- f) Participants using the TeleFile system cannot recall or intercept a return that has been filed using the TeleFile system after that return has been confirmed as received. Participants wishing to make any changes to a return that has been filed using the TeleFile system must file an amended return in a paper format.

Section 770.130 Personal Identification Number (PIN)

- a) Potential voluntary participants that have listed an individual and provided that individual's signature on the taxpayer's registration form as being responsible for the filing of returns and payment of the tax for that taxpayer may be issued a PIN by the Department.
- b) The PIN issued by the Department, when utilized by the participant in combination with the participant's IBT number, will be used as the responsible person's electronic signature on the return that is filed through use of the TeleFile program. The use of the PIN in combination with the IBT number has the same legal effect as if the taxpayer had signed the return that is a part of that TeleFile filing.
 - 1) For returns listed in Section 770.105(c) that are required to be filed through the TeleFile program and that are filed by a corporate taxpayer whose registration does not list an individual as being responsible for the filing of returns and payment of the tax for that taxpayer, the use of the PIN in combination with the IBT number has the same legal effect as if the President of that corporation had signed the return that is part of that TeleFiling. Until such time as another person is identified by the corporation as being the person responsible for the filing of returns and payment of the tax, the President of the corporation is deemed to be the responsible party.
 - 2) For returns listed in Section 770.105(c) that are required to be filed through the TeleFile program and that are filed by a partnership whose registration does not list an individual as being responsible for the filing of returns and payment of the tax for that partnership, the use of the PIN in combination with the IBT number has the same legal effect as if the partners of that partnership had signed the return that is part of that

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

TeleFiling. Until such time as another person is identified by the partnership as being the person responsible for the filing of returns and payment of the tax, the partners of that partnership are deemed to be the responsible parties.

- c) Participants are responsible for notifying the Department when the person listed and whose signature appears on the Department's records as being responsible for the filing of returns and payment of the tax for that taxpayer no longer has that responsibility or authority on behalf of the taxpayer. Upon such notification, the Department will void that PIN. When the Department receives the necessary information regarding the person who is responsible for the filing of returns and payment of the tax for that taxpayer, the Department will issue a new PIN to that participant.
- d) The participant is responsible for the security and safekeeping of the PIN. Participants must notify the Department if the security of the PIN has been compromised or a new responsible person has been appointed as required in subsection (c) of this Section. Upon such notification, the Department will void that PIN and a new PIN will be issued.

Section 770.140 Confirmation Numbers

- a) Upon successfully entering all of the required return information using the number keys on a touch-tone telephone, the participant will be given a confirmation number by the automated voice prompt system. A separate confirmation number will be given to the participant for each return that is successfully filed using the TeleFile system.
- b) Participants must maintain a record of the confirmation numbers in order to establish that the returns were received by the Department on the dates that the confirmation numbers were issued.
- c) Failure to receive a confirmation number means that the return was not filed using the TeleFile system.
- d) When an eligible return has not been confirmed after three attempts, the participant should contact the Department for assistance by calling the telephone number provided in the Department's TeleFile information packet.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

Section 770.150 Due Dates and Date Received

- a) The date that the telephone call is completed and a confirmation number is issued by the automated voice prompt system is the received date for the return to which the confirmation number relates. For example, if a telephone call is initiated on one date and completed on another date, the date that the telephone call is completed is the date of filing. The confirmation number must be received and the telephone call must be completed by 11:59 p.m. CST (adjusted for Daylight Savings Time) on that date for the return to be considered filed on that date.
- b) Returns that are filed through the use of TeleFile after the date that they are due will result in penalties for late filing as provided in 86 Ill. Adm. Code 700.300.
- c) If a return filing includes EFT debit payment information, the payment will be considered timely if all of the following conditions are met:
 - 1) The received date for the return in which the EFT debit payment is included is timely under subsection (a);
 - 2) The EFT debit payment date requested is no later than the due date or, if a payment date of the due date is unavailable, then no later than the next available business day after the due date; and
 - 3) A confirmation number for the EFT debit is received from the automated voice prompt system indicating that it was accepted in the same call as the return filing.
- d) Failure to receive a confirmation number for an EFT debit payment means that the debit was not accepted by the TeleFile system.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Evaluation of Certified Employees under Articles 24A and 34 of the School Code
- 2) Code Citation: 23 Ill. Adm. Code 50
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
50.10	New Section
50.20	New Section
50.30	New Section
50.100	New Section
50.110	New Section
50.120	New Section
50.140	New Section
50.200	New Section
50.300	New Section
50.310	New Section
50.320	New Section
50.330	New Section
50.400	New Section
50.410	New Section
50.420	New Section
50.APPENDIX A	New Section
- 4) Statutory Authority: 105 ILCS 5/24A-7
- 5) A Complete Description of the Subjects and Issues Involved: PA 96-861, or Performance Evaluation Performance Act of 2010 (PERA), became effective January 1, 2010, and amended Articles 24A and 34 of the School Code to transform the way in which the performance of teachers and principals in Illinois public schools is evaluated. Central to this transformation is the inclusion of data and indicators of student growth (in addition to consideration of professional practice) as a "significant" factor in determining a teacher's or principal's performance evaluation rating.

Amendments to PERA by PA 97-8 (SB 7), effective June 13, 2011, expanded the use of performance evaluations by holding nontenured teachers to similar standards of evaluation as tenured teachers. Similarly, PA 97-217, effective July 28, 2011, requires that assistant principals also be included in the performance evaluation system using both student growth and professional practice for rating performance (with the exception of assistant principals in City of Chicago School District 299 (CPS)). Assistant principals

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

working outside of the city of Chicago, like principals, must be evaluated every school year by no later than March 1. Principals in CPS must be evaluated by July 1 annually.

The proposed rules set forth the minimum requirements for both student growth and professional practice that all school districts must meet when establishing their performance evaluation systems for teachers and principals/assistant principals (Subparts B and D, respectively). Additionally, PERA requires that the State Board establish a performance evaluation model for both teachers and principals/assistant principals. Use of the model is optional for school districts, which may choose to incorporate the entire model or portions of the model into their performance evaluation plans, so the model is not a subject of rulemaking. Use of the teacher model pertaining to data and indicators of student growth is required, however, in those instances in which the school district and its teachers, using the process of a joint committee set forth in PERA, cannot agree on some or all of the aspects of student growth and those requirements are being placed in Subpart C.

The proposed rules (see Section 50.110) provide an outline for how student growth must be considered when rating student performance for teachers by:

- Designating that student growth must constitute 30 percent of the final performance evaluation rating assigned, which will be phased in using 25 percent for the first two years of implementation for school districts implementing systems in 2012-13 and 2013-14 school years;
- Defining the type of assessments from which the joint committee may choose (which shall not include any State assessment for school districts located outside of Chicago); and
- Allowing joint committees to determine locally how student characteristics will be considered relative to student growth.

The State model for considering student growth for teachers (Subpart C) includes the minimum criteria addressed in Section 50.110 that all districts must meet (except for CPS, which is not required to use the State model). Since it is anticipated that few if any schools will "default" to the State model within the next couple of years, the Performance Evaluation Advisory Council will continue to flesh out requirements of the model specific to special populations, identification of procedures for reaching agreement on the type of assessments to be used when the joint committee cannot agree, and for both assessments for nontested areas, such as career and technical education and the fine arts, and the measures tied to those assessments, such as student learning objectives.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

It is proposed that consideration of student growth for principals and assistant principals (see Section 50.310) also be 30 percent of the final performance evaluation rating assigned, with a two-year phasing in of this minimum level. The proposed rules state when a student's score may be included as part of the student growth measure, ensuring that the results can be attributed to the principal or assistant principal being evaluated. The proposal also recognizes the unique role of assistant principals by allowing for consideration of other student outcomes, such as attendance, when looking at student growth for an assistant principal, provided those outcomes are tied to the individual's specific duties.

The proposed rules for professional practice for teachers and principals/assistant principals (see Sections 50.120 and 50.320, respectively) define the characteristics of a formal observation, the number of observations that must be conducted, and requirements for the evaluator to meet with the individual being evaluated before the observation takes place and share information about the evidence collected after the observation is concluded. These requirements are intended to help prepare both the evaluator and individual being evaluated for each observation and provide information in a timely manner so that the individual can work towards improvements in practice before the final performance evaluation rating is assigned.

Finally, PERA requires certain training of evaluators and allows school districts the option of either developing their own process or program for prequalification and retraining or using the programs to be developed by, or on behalf of, the State Board. Proposed Subpart E addresses requirements for any locally developed prequalification process or retraining program.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes, see Sections 50.100(d) and 50.Appendix A.
- 10) Are there any other proposed rulemakings pending on this Part? No

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- 11) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2011

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 50
EVALUATION OF CERTIFIED EMPLOYEES
UNDER ARTICLES 24A AND 34 OF THE SCHOOL CODE

SUBPART A: GENERAL REQUIREMENTS

Section	
50.10	Purpose
50.20	Applicability
50.30	Definitions

SUBPART B: PERFORMANCE EVALUATION PLANS: TEACHERS

Section	
50.100	Plan Components Required for the Evaluation of Teachers
50.110	Student Growth Components
50.120	Professional Practice Components for Teachers
50.140	Reporting

SUBPART C: STATE PERFORMANCE EVALUATION MODEL FOR TEACHERS

Section	
50.200	Implementation Requirements

SUBPART D: PERFORMANCE EVALUATION PLANS:
PRINCIPALS AND ASSISTANT PRINCIPALS

Section	
50.300	Plan Components Required for the Evaluation of Principals and Assistant Principals
50.310	Student Growth Components
50.320	Professional Practice Components for Principals and Assistant Principals
50.330	Reporting

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

SUBPART E: TRAINING FOR EVALUATORS

Section

- 50.400 School District-Developed Prequalification Process or Retraining Program
50.410 Minimum Requirements for Prequalification Process and Retraining Program
50.420 Competencies of Qualified Evaluators

50.APPENDIX A Illinois Standards for Principal Evaluation

AUTHORITY: Implementing and authorized by Section 24A-7 of the School Code [105 ILCS 5/24A-7].

SOURCE: Old Part repealed at 29 Ill. Reg. 15902, effective October 3, 2005; new Part adopted at 36 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL REQUIREMENTS

Section 50.10 Purpose

This Part establishes the minimum requirements for the establishment of valid and reliable performance evaluation systems for certified employees, pursuant to Article 24A of the School Code [105 ILCS 5/Art. 24A], that assess both professional competence or practice and student growth. The purposes of this Part are to:

- a) identify the minimum components, including those that address student growth, of a teacher performance evaluation system and of a principal and, as applicable, assistant principal performance evaluation system that each school district must implement;
- b) provide a State model for the evaluation of teachers that addresses *the use of data and indicators on student growth as a significant factor in rating teacher performance*, some or all of which shall be required of a school district under certain circumstances outlined in Section 24A-4 of the School Code [105 ILCS 5/24A-4]; and
- c) establish criteria for locally developed programs to prequalify and retrain evaluators, pursuant to Section 24A-3 of the School Code [105 ILCS 5/24A-3].

Section 50.20 Applicability

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

Sections 24A-2.5 and 24A-15 [105 ILCS 5/24A-2.5 and 24A-15] of the School Code establish the dates for specific groups of school districts (or for schools within certain districts) to implement performance evaluation systems, including both professional practice and data and indicators of student growth, for teachers, principals, and assistant principals that meet the requirements of this Part and Article 24A of the School Code and, for City of Chicago School District 299 (CPS), Sections 34-8 and 34-85c of the School Code [105 ILCS 5/34-8 and 34-85c].

- a) Each school district shall implement a performance evaluation system for principals by September 1, 2012. (See Section 24A-15 of the School Code.)
- b) Each school district located outside of the city of Chicago shall implement a performance evaluation system for assistant principals by September 1, 2012. (See Section 24A-15 of the School Code.)
- c) CPS shall implement a performance evaluation system for teachers *in at least 300 schools by September 1, 2012 and in the remaining schools by September 1, 2013.* (Section 24A-2.5 of the School Code)
- d) School districts that have received a grant under Section 1003(g) of Title I of the Elementary and Secondary Education Act (ESEA), as reauthorized by the No Child Left Behind Act of 2001 (PL 107-110), shall implement a performance evaluation system for teachers in those schools that are covered by Section 1003(g) funds by the date set forth in the approved grants. (See Section 24A-2.5 of the School Code.)
- e) School districts located outside of the City of Chicago whose student performance ranks in the lowest 20 percent among school districts of their type (i.e., unit, elementary or high school) shall implement a performance evaluation system for teachers by September 1, 2015. (See Section 24A-2.5 of the School Code.) For purposes of this subsection (e), "student performance" shall be determined based upon a school district's overall performance on the spring 2014 administration of the State assessments authorized under Section 2-3.64 of the School Code [105 ILCS 5/2-3.64].
- f) Any school district not subject to subsection (c) or (e) of this Section and schools located in school districts subject to subsection (d) of this Section that are not covered by a grant under Section 1003(g) of Title I of ESEA shall implement a

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

performance evaluation system for teachers by September 1, 2016. (See Section 24A-2.5 of the School Code.)

- g) In accordance with the provisions of Section 24A-2.5 of the School Code, a school district and its teachers, or the exclusive bargaining representative of teachers if applicable, may jointly agree to an implementation date that is earlier than the date specified in this Section for their district type. When an earlier implementation date is agreed upon, the school district shall provide to the State Board of Education, within 30 days after an agreement is executed, a dated copy of the written agreement specifying the agreed upon implementation date and signed by the district superintendent and teachers or the exclusive bargaining representative.

Section 50.30 Definitions

As used in this Part:

"Assessment" means any instrument that measures a student's acquisition of specific knowledge and skills. Assessments used in the evaluation of principals shall be aligned to one or more instructional areas articulated in the Illinois Learning Standards (see 23 Ill. Adm. Code 1. Appendix D). For the purposes of this Part, assessments will be defined as the following types.

"Type I assessment" means a reliable assessment that measures a certain group or subset of students in the same manner with the same potential assessment items, is scored by a non-district entity, and is administered either statewide or beyond Illinois. Examples include assessments available from the Northwest Evaluation Association (NWEA), Scantron Performance Series, Star Reading Enterprise, College Board's SAT, Advanced Placement or International Baccalaureate examinations, or ACT's EPAS[®] (i.e., Educational Planning and Assessment System).

"Type II assessment" means any assessment developed or adopted and approved for use by the school district and used on a districtwide basis by all teachers in a given grade or subject area. Examples include collaboratively developed common assessments, curriculum tests and assessments designed by textbook publishers.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

"Type III assessment" means any assessment that is rigorous, that is aligned to the course's curriculum, and that the qualified evaluator and teacher determine measures student learning in that course. Examples include teacher-created assessments, assessments designed by textbook publishers, student work samples or portfolios, assessments of student performance, and assessments designed by staff who are subject or grade-level experts that are administered commonly across a given grade or subject. A Type I or Type II assessment may qualify as a Type III assessment if it aligns to the curriculum being taught and measures student learning in that subject area (see Section 50.110(b)(2) of this Part).

"Assistant principal" means an administrative employee of the school district who is required to hold an administrative certificate issued in accordance with Article 21 of the School Code [105 ILCS 5/Art. 21] or a professional educator's license issued in accordance with Article 21B of the School Code [105 ILCS 5/21B] endorsed for either general administration or principal, and who is assigned to assist the principal with his or her duties in the overall administration of the school.

"Formal observation" means a specific period of time that is scheduled with the teacher, principal, or assistant principal to directly observe professional practices in the classroom or in the school.

"Joint committee" means a committee composed of *equal representation selected by the district and its teachers or, when applicable, the exclusive bargaining representative of its teachers*, which shall have the duties set forth in this Part regarding the establishment of a performance evaluation plan that *incorporates data and indicators of student growth as a significant factor in rating teacher performance* and addresses professional practice. (Section 24A-4 of the School Code)

"Informal observation" means observations of a teacher, principal, or assistant principal by a qualified evaluator that are not announced in advance of the observation and not subject to a minimum time requirement.

"Metric" means the manner in which two or more assessment scores are compared for the purpose of identifying a change in a student's knowledge or skills over time.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

"Performance evaluation plan" means a plan to evaluate a teacher, principal, or assistant principal that includes data and indicators on student growth as a significant factor in judging performance, measures the individual's professional practice, and meets the requirements of Article 24A of the School Code and this Part.

"Performance evaluation rating" means the final rating of a teacher's, principal's, or assistant principal's performance, using the rating levels required by Sections 24A-5(e), 34-8, and 34-85c of the School Code [105 ILCS 5/24A-5(e), 34-8, and 35-85c], that includes consideration of both student growth and professional practice.

"Qualified Evaluator" shall have the meaning set forth in Section 24A-2.5 or 24A-15 of the School Code and shall be an individual who has completed the prequalification process required under Section 24A-3 of the School Code or Subpart E of this Part, as applicable, and successfully passed the State-developed assessments specific to evaluation of teachers or principals and assistant principals. Each qualified evaluator shall maintain his or her qualification by completing the retraining required under Section 24A-3 of the School Code or Subpart E of this Part, as applicable.

"Student growth" means a demonstrable change in a student's or group of students' knowledge or skills, as evidenced by gain and/or attainment on two or more assessments, between two or more points in time.

"Teacher" means professional employees of the school district who are required to hold a teaching certificate issued in accordance with Article 21 of the School Code or a professional educator's license endorsed for a teaching field issued in accordance with Article 21B of the School Code. For the purposes of the requirements specific to student growth outlined in Article 24A of the School Code and this Part, "teacher" shall not include any individual who holds a school service personnel certificate issued under Article 21 of the School Code or a professional educator license endorsed for school support personnel issued under Article 21B of the School Code and is assigned to an area designated as requiring this certificate or endorsement, including but not limited to school counselor, school psychologist, nonteaching school speech and language pathologist, school nurse, or school social worker.

SUBPART B: PERFORMANCE EVALUATION PLANS: TEACHERS

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

Section 50.100 Plan Components Required for the Evaluation of Teachers

Each school district shall implement a performance evaluation plan for its teachers no later than the applicable date outlined in Section 50.20 of this Part. The plan shall address each of the components contained in this Section.

- a) The plan shall provide for an evaluation at least once every two years of each teacher in contractual continued service (i.e., tenured); however, a tenured teacher who has obtained a "needs improvement" or "unsatisfactory" rating on the previous year's evaluation shall be evaluated in the next school year after receiving that rating. (See Section 24A-5 of the School Code.)
- b) The plan shall provide for an evaluation at least once every year of each teacher not in contractual continued service (i.e., nontenured). (See Section 24A-5 of the School Code.)
- c) At the start of the school term, the school district shall provide a written notice (either electronic or paper) that a performance evaluation will be conducted in that school term to each teacher affected or, if the affected teacher is hired after the start of the school term, then no later than 30 days after the contract is executed. The written notice shall include:
 - 1) a copy of the rubric to be used to rate the teacher against identified standards and goals and other tools to be used to determine a performance evaluation rating;
 - 2) a summary of the manner in which measures of student growth and professional practice to be used in the evaluation relate to the performance evaluation ratings of "excellent", "proficient", "needs improvement", and "unsatisfactory" as set forth in Sections 24A-5(e) and 34-85c of the School Code; and
 - 3) a summary of the district's procedures related to the provision of professional development or remediation in the event a teacher receives a "needs improvement" or "unsatisfactory" rating, respectively, to include evaluation tools to be used during the remediation period.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- d) Any professional development provided as part of a professional development or remediation plan under Section 24A-5 of the School Code shall align to Learning Forward's Standards for Professional Learning (2011) posted at <http://www.nsd.org/standards/index.cfm>. No later amendments to or editions of these standards are incorporated by this Section.

Section 50.110 Student Growth Components

Each school district, when applicable (see Section 50.20 of this Part), shall provide for the use in the performance evaluation plan *of data and indicators on student growth as a significant factor in rating teacher performance*. (Section 24A-4(b) of the School Code) For the purpose of this Subpart B, "significant factor" shall represent at least 30 percent of the performance evaluation rating assigned, except as otherwise provided in subsection (a) of this Section. In situations in which a joint committee cannot reach agreement on one or more aspects of student growth within the timeline established under Section 24A-4(b) of the School Code, the school district shall adopt the State model plan contained in Subpart C of this Part with respect to those aspects of student growth upon which no agreement was reached.

- a) For a school district implementing a performance evaluation plan incorporating student growth in school year 2012-13 or 2013-14, student growth shall represent at least 25 percent of a teacher's performance evaluation rating in the first and second years of implementation (for example, 2012-13 and 2013-14 schools years for a school district with a 2012-13 implementation date). Thereafter, student growth shall represent at least 30 percent of the rating assigned.
- b) The performance evaluation plan shall identify at least two assessments for evaluating each type of teacher and one or more metrics to be used to determine student growth that are specific to each assessment chosen. The assessments and metrics identified shall align to the school's and district's school improvement goals.
 - 1) The joint committee shall identify a measurement model for each assessment employing multiple data points from at least one Type I or Type II assessment and at least one Type III assessment. Assessments used for each data point in a measurement model may be different provided that they address the same instructional content.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- 2) If the joint committee determines that neither a Type I nor a Type II assessment can be identified, then the joint committee shall identify at least two Type III assessments to be used.
 - 3) The plan shall identify student growth expectations consistent with the assessments and metrics to be used, as appropriate.
 - 4) Each plan shall identify the uniform process (to occur at the midpoint of the evaluation cycle) by which the teacher will collect interim data specific to student learning. The interim data shall not be used to determine the performance evaluation rating and should allow for a teacher to assess his or her progress and adjust instruction, if necessary.
- c) The joint committee shall consider how certain student characteristics (e.g., special education placement, English language learners, low-income populations) shall be used for each metric chosen to ensure that they *best measure the impact that a teacher, school and school district have on students' academic achievement*. [105 ILCS 5/24A-7]
 - d) If the rating scale to be used for student growth does not correspond to the performance evaluation ratings required under Section 24A-5(e) or 34-85c of the School Code, then the plan shall include a description of the four rating levels to be used and how these are aligned to the required performance evaluation ratings.
 - e) School districts located outside of the City of Chicago shall not use data from any State assessment administered under Section 2-3.64 of the School Code in determining student growth.
 - f) CPS may adopt, when applicable, one or more State assessments administered pursuant to Section 2-3.64 of the School Code *as its sole measure of student growth for purposes of teacher evaluations*. (Section 24A-7 of the School Code)

Section 50.120 Professional Practice Components for Teachers

Each school district, when applicable (see Section 50.20 of this Part), shall implement the requirements of this Section regarding the evaluation of a teacher's professional practice.

- a) In order to assess the quality of the teacher's professional practice, the evaluation plan shall include an instructional framework developed or adopted by the school

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

district that is based upon research regarding effective instruction; addresses at least planning, instructional delivery, and classroom management; and aligns to the Illinois Professional Teaching Standards (23 Ill. Adm. Code 24).

- 1) The instructional framework shall align to the roles and responsibilities of each teacher who is being evaluated.
 - 2) The evaluation plan shall contain a rubric to be used in rating professional practice that aligns to the instructional framework developed or adopted under this subsection (a).
 - 3) If the rating scale to be used for each component of professional practice does not correspond to the performance evaluation ratings required under Section 24A-5(e) or 34-85c of the School Code, then the framework shall include a description of the four rating levels to be used and how these are aligned to the required performance evaluation ratings. In addition, the district shall quantify the relative importance of each portion of the framework to the final professional practice rating.
- b) As required under Section 24A-5 of the School Code, the evaluation plan shall consider the teacher's attendance and competency in the subject matter taught, as well as specify the teacher's strengths and weaknesses and the reasons for identifying the areas as such.
 - c) Evidence of professional practice shall be collected through the use of multiple observations that include formal and informal observations. For the purpose of this subsection (c), a formal observation shall allow the qualified evaluator to acquire evidence of the teacher's planning, instructional delivery, and classroom management skills and shall involve one of the following activities: an observation of the teacher in his or her classroom for a minimum of 45 minutes at a time; or an observation during a complete lesson; or an observation during an entire class period. The qualified evaluator may designate another person to conduct the observation in situations in which he or she cannot complete all of the observations, or the observations cannot be completed in a timely manner, provided the individual so designated is a qualified evaluator, thus having completed the prequalification process and any retraining, as applicable, required under Section 24A-3 of the School Code.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- 1) For each tenured teacher who received either an "excellent" or "proficient" performance evaluation rating in his or her last performance evaluation, a minimum of two observations are required during the two-year cycle in which the current evaluation is conducted, one of which must be a formal observation.
- 2) For each tenured teacher who received a "needs improvement" or "unsatisfactory" performance evaluation rating in his or her last performance evaluation, a minimum of three observations shall be required in the school year immediately following the year in which the "needs improvement" or "unsatisfactory" rating was assigned, of which two must be formal observations.
- 3) For each nontenured teacher, a minimum of three observations shall be required each school year, of which two must be formal observations.
- 4) Each formal observation shall be preceded by a conference between the qualified evaluator and the teacher.
 - A) In advance of this conference, the teacher shall submit to the qualified evaluator a written lesson plan and/or other evidence of planning for the instruction that will be conducted on the day of the formal observation and make recommendations for areas on which the qualified evaluator should focus during the observation.
 - B) The qualified evaluator and the teacher shall discuss the lesson plan or instructional planning and any areas on which the qualified evaluator should focus during the observation, if applicable.
- 5) Following either a formal or informal observation, the qualified evaluator shall discuss with the teacher the evidence collected about the teacher's professional practice.
 - A) The teacher shall consider (that is, reflect upon) his or her instruction and, if applicable, provide to the qualified evaluator additional information or explanations about the presentation.
 - B) The qualified evaluator shall provide feedback to the teacher about the individual's professional practice, including data and evidence

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

specific to areas of focus designated during the conference preceding the observation (see subsection (c)(4) of this Section).

- C) If the qualified evaluator determines that the data and evidence collected to date may result in the teacher receiving either a "needs improvement" or "unsatisfactory" performance evaluation rating, then the qualified evaluator shall notify the teacher of that determination.
 - D) The teacher shall work with the qualified evaluator or others (e.g., professional learning team, department head), as determined in the plan, to identify areas for improvement.
- d) Evidence of Professional Practice
- 1) Any evidence collected during an observation shall be consistent with the rubric developed under subsection (a) of this Section.
 - 2) The qualified evaluator shall share with the teacher any evidence collected and judgments made about the evidence during the conference held following the observation (see subsection (c)(5) of this Section).
 - 3) The evaluation plan shall define how the evidence to be collected will be used to determine a final professional practice rating.

Section 50.140 Reporting

- a) By no later than June 30 of each year, the State Board of Education shall identify the manner and timeline for the submission of data and other information relative to performance evaluations that each school district must submit. These data and information shall include, but not be limited to, data regarding the performance evaluation rating given to each tenured and nontenured teacher and data about teacher retention, as well as other information specific to the locally adopted performance evaluation plan that will assist the State Board of Education in determining whether performance evaluation systems are reliable and valid, improve student achievement, and contribute to the development of staff. (See Section 24A-20 of the School Code.)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- b) A school district shall not be required to submit its performance evaluation plan for teachers to the State Board of Education for review, comment, or approval, unless specifically requested by the State Board of Education.

SUBPART C: STATE PERFORMANCE EVALUATION MODEL FOR TEACHERS

Section 50.200 Implementation Requirements

- a) A school district, in conjunction with the joint committee established under Section 24A-4(b) of the School Code, shall be required to adopt those aspects of the State model contained in this Subpart C regarding data and indicators of student growth about which the joint committee is unable to agree within 180 calendar days after the date on which the joint committee held its first meeting.
- b) The first meeting of a joint committee shall occur no later than November 1 of the school year immediately preceding the school district's implementation date specified in Section 24A-2.5 of the School Code (see Section 50.20 of this Part). For purposes of this subsection (b), the 180-day deadline set forth in subsection (a) of this Section does not preclude the members of the joint committee from meeting, either as a committee or with other administrators and teachers, provided that the district representatives and the union representatives on the joint committee formally agree to the date on which the 180-day clock will begin.
- c) The student growth component of the plan shall conform to the requirements of Section 50.110 of this Part and shall comprise 50 percent of the performance evaluation rating assigned. (See Section 24A-7 of the School Code.)
- d) The requirements of this Subpart C do not apply to CPS.

SUBPART D: PERFORMANCE EVALUATION PLANS:
PRINCIPALS AND ASSISTANT PRINCIPALS**Section 50.300 Plan Components Required for the Evaluation of Principals and Assistant Principals**

Each school district shall implement a performance evaluation plan for its principals and assistant principals no later than September 1, 2012. (See Sections 24A-15 and 34-8 of the School Code.) Assistant principals employed by CPS shall not be subject to the performance evaluations system established under Article 24A of the School Code and this Part.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- a) A school district may choose to develop its own performance evaluation plan or adopt or adapt the State model authorized under Section 24A-7 of the School Code.
- 1) The plan shall *consider the principal's or, as applicable, assistant principal's specific duties, responsibilities, management and competence as a principal or assistant principal.* (Sections 24A-15(c)(1), (c-5)(1), and 34-8 of the School Code.)
 - 2) The plan shall consider *the principal's or, as applicable, assistant principal's strengths and weaknesses, with supporting reasons.* (Sections 24A-15(c)(2), (c-5)(2), and 34-8 of the School Code)
 - 3) The plan shall consider the performance goals developed pursuant to Sections 10-23.8a and 34-8.1 of the School Code [105 ILCS 5/10-23.8a and 34-8.1] for any principal or, as applicable, assistant principal who has a performance-based contract.
- b) The plan shall identify the person who will evaluate the principal or assistant principal. For a principal who also serves as the district superintendent, the evaluator shall be appointed by the local board of education. The evaluator so appointed shall hold a current and valid administrative certificate or professional educator license endorsed for superintendent issued under Article 21 or Article 21B of the School Code, respectively, and have completed the prequalification process and any retraining, as applicable, required under Section 24A-3 of the School Code or Subpart E of this Part.
- c) The plan shall provide for the completion of the evaluation (i.e., collection of data and information on student growth and conducting observations) no later than March 1 annually for a principal or assistant principal (Section 24A-15 of the School Code) for school districts located outside of the City of Chicago, or by July 1 annually for a principal employed by CPS. (See Section 34-8 of the School Code.)
- d) A written notice (either electronic or paper) of the evaluation shall be provided to each principal and, as applicable, assistant principal at the start of the school year, or if the principal or assistant principal is hired or assigned to the position after

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

the start of the school term, then no later than 30 days after the contract is signed or the assignment is made. The written notice shall include:

- 1) a copy of the rubric to be used to rate student growth and professional practice of the principal or assistant principal; and
 - 2) a summary of the manner in which student growth and professional practice measures to be used in the evaluation relate to the performance evaluation ratings of "excellent", "proficient", "needs improvement", and "unsatisfactory".
- e) On or before October 1 of each year, the qualified evaluator and principal or assistant principal shall meet to set student growth metrics and targets to be used. If the qualified evaluator and principal or assistant principal fail to agree on the student growth measures and targets to be included, then the qualified evaluator shall determine the goals to be considered.
- f) On or before October 1 of each year, the qualified evaluator and principal or assistant principal shall establish professional growth goals, which shall be based on the results of the performance evaluation conducted in the previous school year, if any. If the qualified evaluator and principal or assistant principal fail to agree on the professional growth goals to be included, then the qualified evaluator shall determine the goals to be considered.
- g) When the performance evaluation is completed, the qualified evaluator shall meet with the principal or assistant principal to inform the principal or assistant principal of the rating given for the student growth and professional practice components of the evaluation and of the final performance evaluation rating received, and discuss the evidence used in making these determinations. The qualified evaluator shall discuss the strengths demonstrated by the principal or assistant principal and identify specific areas of growth.

Section 50.310 Student Growth Components

Each school district shall provide for the use in the performance evaluation plan *of data and indicators on student growth as a significant factor in rating principal or, as applicable, assistant principal performance.* (Sections 24A-15 and 34-8 of the School Code) For the purpose of this Subpart D, "significant factor" shall represent at least 30 percent of the performance evaluation rating assigned, except as otherwise provided in subsection (a) of this Section.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- a) For a school district implementing a performance evaluation plan incorporating student growth in school year 2012-13 or 2013-14, student growth shall represent at least 25 percent of a principal's or assistant principal's performance evaluation rating in the first and second years of implementation (for example, 2012-13 and 2013-14 school years for a school district with a 2012-13 implementation date). Thereafter, student growth shall represent at least 30 percent of the rating assigned.
- b) No later than October 1 of each school year, the qualified evaluator shall inform the principal or assistant principal of the assessments and, for the assessments identified, the metrics and targets to be used. The qualified evaluator shall specify the weights of each assessment and target to be used.
 - 1) The school district shall identify at least two assessments, either from Type I or Type II, which are able to provide data that meet the definition of student growth as set forth in Section 50.30 of this Part.
 - A) A State assessment administered under Section 2-3.64 of the School Code may be one of the assessments to be used for determining student growth and shall be considered to be a Type I assessment.
 - B) Type III assessments may be used for schools serving a majority of students who are not administered a Type I or Type II assessment. In these situations, the qualified evaluator and principal may identify at least two Type III assessments to be used to determine student growth.
 - C) CPS may adopt the State assessments administered pursuant to Section 2-3.64 of the School Code *as its sole measure of student growth for purposes of principal evaluations.* (Section 24A-7 of the School Code)
 - 2) Individual assessment results of any student shall be included in the student growth metric, provided that the student has been enrolled in the school for a period of time sufficient for him or her to have results from at least two points in time on a comparable assessment. For instance, a student would be included if he or she had results from the two most

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

recently administered State assessments or results from an assessment administered at the beginning of a school term and again at mid-year.

- 3) The results from the most recent administration of a selected assessment shall be used as the ending point at which the level of student growth is calculated.
- c) For an assistant principal, a qualified evaluator may select student growth measures that align to the individual's specific duties (e.g., improvements in attendance, decrease in disciplinary referrals).
- d) The school district shall consider how certain student characteristics (e.g., special education placement, English language learners, low-income populations) shall be used for each assessment and target chosen to ensure that they *best measure the impact that a principal, school and school district have on students' academic achievement*. (Section 24A-7 of the School Code)

Section 50.320 Professional Practice Components for Principals and Assistant Principals

Consideration of the professional practice of a principal and, as applicable, assistant principal shall comprise a minimum of 50 percent of the performance evaluation rating and include each of the following elements.

- a) Any instruments and rubric used to evaluate the professional practice of a principal or assistant principal shall align to the Illinois Standards for Principal Evaluation (see Appendix A of this Part).
 - 1) The rubric shall state the indicators for each standard and provide a clear description of at least four performance levels to be considered for each indicator.
 - 2) A school district may choose to adopt the rubric contained in the State performance evaluation model for principals, developed pursuant to Section 24A-7 of the School Code, or it may develop its own rubric. Any school district that uses a rubric other than the rubric contained in the State model shall establish a process to ensure that all principals, assistant principals, and principal evaluators are familiar with and understand the content of the rubric, the different levels of performance used for

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

professional practice, and how the overall professional practice rating will be determined.

- b) No later than February 1 of each year, or June 1 of each year for schools located in CPS, each principal or, as applicable, assistant principal shall complete a self-assessment that is aligned to the rubric to be used to evaluate professional practice. The self-assessment shall be used as one input in determining a principal's or assistant principal's professional practice rating.
- c) Observations
 - 1) The plan shall provide for a minimum of two formal observations at the school in which the principal or assistant principal is employed.
 - A) The qualified evaluator shall observe school practices and may directly observe the principal's or assistant principal's interactions and activities during his or her work day.
 - B) The formal observation shall be scheduled in advance and shall include at least one objective for the observation (e.g., reviewing classrooms, observing leadership team meetings).
 - C) Feedback from the formal observations shall be provided in writing (electronic or paper) to the principal or assistant principal no later than 10 principal work days after the day on which the observation occurred. For the purpose of this subsection (c)(1)(C), a "principal work day" is any day in which the principal or assistant principal is contractually obligated to work, regardless of whether students are present.
 - D) Other evidence and information received by the qualified evaluator that would have a negative impact on the evaluator's rating of the principal (e.g., parent complaints) shall be shared with the principal within the timeline established in subsection (c)(1)(C) of this Section.
 - 2) There is no limit on the number of informal observations that a qualified evaluator may conduct, provided that he or she deems the informal evaluations necessary to fully assess the performance of the principal or

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

assistant principal being evaluated. Evidence gathered during informal observations may be considered in determining the performance evaluation rating, provided it is documented in writing.

- d) If a district chooses to use professional practice ratings that do not correspond to the performance evaluation ratings required to be used under Section 24A-15 or 34-8 of the School Code, then it shall ensure that the four levels chosen align to the required performance evaluation ratings.
- e) The school district or qualified evaluator shall inform the principal or assistant principal how evidence of professional practice collected will be used to determine a professional practice rating.

Section 50.330 Reporting

- a) By no later than June 30 of each year, the State Board of Education shall identify the manner and timeline for the submission of data and other information relative to performance evaluations that each school district must submit. These data and information shall include, but not be limited to, data regarding the performance evaluation ratings given to each principal and, as applicable, assistant principal, as well as other information specific to the locally adopted model that will assist the State Board of Education in determining whether performance evaluation systems are reliable and valid, improve student achievement, and contribute to the development of staff. (See Section 24A-20 of the School Code.)
- b) A school district shall not be required to submit its performance evaluation plan for principals or assistant principals to the State Board of Education for review, comment, or approval, unless specifically requested by the State Board of Education.

SUBPART E: TRAINING FOR EVALUATORS

Section 50.400 School District-Developed Prequalification Process or Retraining Program

Section 24A-3 of the School Code requires that an individual who conducts evaluations of teachers, principals, or assistant principals after September 1, 2012 be prequalified before undertaking any evaluations and participates in a regularly scheduled retraining program, either of which must be developed or approved by the State Board of Education. In order to ensure that a school district-developed prequalification process or retraining program meets the rigor of the

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

State Board of Education-developed trainings, any prequalification process or retraining program developed and used by a school district shall, at a minimum, meet the requirements of this Subpart E.

- a) Prequalification Process
 - 1) Beginning September 1, 2012, an evaluator shall not conduct a performance evaluation of a teacher, principal, or assistant principal unless he or she has successfully completed the prequalification process and passed the State-developed assessment specific to rating professional practice.
 - 2) Beginning on a school district's applicable implementation date, as set forth in Section 50.20 of this Part, or by an earlier implementation date as determined by the school district and its teachers, or exclusive bargaining representative, as applicable (see Section 50.20(g) of this Part), an evaluator shall not conduct a performance evaluation of a teacher, principal, or assistant principal that addresses student growth unless he or she has successfully completed the prequalification process for student growth and passed the State-developed assessment specific to the consideration of data and indicators of student growth.
- b) A school district offering its own retraining program shall ensure that each qualified evaluator completes the program at least once during each five-year certificate or licensure renewal cycle. (See Section 24A-3 of the School Code.)
 - 1) An individual who has not completed the retraining program, as required, during any applicable five-year cycle shall be ineligible to conduct evaluations until the retraining program is completed.
 - 2) An individual who will be evaluating teachers in a school district that implements a performance evaluation system beginning September 1, 2015 or later shall be required to successfully complete a retraining program specific to professional practice of teachers before conducting any performance evaluations of teachers.
- c) A school district developing its own prequalification process or retraining program shall notify the State Board of Education no later than July 1 immediately preceding the school year in which the process or program will be

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

implemented. The notification shall at least include the type of training to be offered, names of the individuals presenting the training, and date upon which each school district-designated trainer completed the "train-the-trainers" program offered by, or on behalf of, the State Board of Education.

Section 50.410 Minimum Requirements for Prequalification Process and Retraining Program

A school district-developed prequalification process or retraining program shall contain each of the elements listed in this Section. A school district is not required to develop both a prequalification process and retraining program, nor is it required to address both teachers and principals. Similarly, a locally developed prequalification process or retraining program may address professional practice only, student growth only, or both. Any school district not offering a unified course of study (i.e., professional practice and student growth) either for teachers or principals shall ensure that those individuals successfully complete the State-developed prequalification process or retraining program in those areas not being covered by the locally developed process or program.

- a) Each individual who will present a prequalification process or retraining program shall complete the "train-the-trainer" program offered by, or on behalf of, the State Board of Education.
- b) Individual course modules shall address each of the following areas:
 - 1) Use of student growth data and indicators to evaluate teachers;
 - 2) Use of student growth data and indicators to evaluate principals;
 - 3) Methods and strategies for evaluating the professional practice of teachers; and
 - 4) Methods and strategies for evaluating the professional practice of principals.
- c) Each course module shall outline course goals, objectives, and participant outcomes and include training materials that align to the school district's evaluation plan.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- d) Each course module shall include "field practice" in a variety of virtual, simulated, or live contexts in order to allow evaluators to apply their understanding to actual situations.
- e) Standards
 - 1) Course modules for teachers shall be aligned to the Illinois Professional Teaching Standards (23 Ill. Adm. Code 24); and
 - 2) Course modules for principals shall be aligned to the Illinois Standards for Principal Evaluation contained in Appendix A of this Part.
- f) Course Content
 - Course modules shall address the following content:
 - 1) State statutory and regulatory requirements for evaluating certified staff, including the use of the required performance evaluation ratings of "excellent", "proficient", "needs improvement", and "unsatisfactory";
 - 2) Protocols and best practices for conducting classroom observations for teachers or observations of school practices for principals;
 - 3) Case studies that exemplify collaborative learning environments;
 - 4) Skills for engaging teachers or principals in high-quality opening conferences, feedback sessions, and end-of-year evaluation discussions;
 - 5) Methods for developing and supporting individualized professional development plans for tenured teachers rated as "needs improvement";
 - 6) Methods for developing and supporting individualized remediation plans for tenured teachers rated as "unsatisfactory";
 - 7) Methods for developing and supporting individual and school-level growth and development goals and plans for principals;
 - 8) Methods for analyzing multiple measures of student growth;

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- 9) Methods for constructing performance evaluation ratings from disparate, variously subjective indicators; and
- 10) Strategies for evaluating certified staff in specialized disciplines (e.g., special education; bilingual education; career and technical education; skill-based subject areas, such as art and music).
- g) Any individual who completes the school district-developed prequalification process but who fails the State-developed assessment shall be required to participate in the State-developed prequalification program before retaking the assessment.
- h) A school district shall include remediation for individuals who did not successfully complete one or more courses of the retraining program. The remediation shall include content or approaches that are different than what was provided in the initial course module to assist the individual in mastering the material.
- i) Course modules may be presented in-person or through distance-learning or video-conferencing technology or through a configuration that best accommodates the content.

Section 50.420 Competencies of Qualified Evaluators

Any prequalification process or retraining program shall ensure that a qualified evaluator demonstrates the competencies set forth in this Section.

- a) Evaluating Student Growth for Teachers
Each qualified evaluator:
 - 1) Uses assessments and metrics identified by the joint committee in determining the student growth attributable to individual teachers and understands how different types of assessments are used for measuring growth;
 - 2) Uses data from the evaluation rubric, other evidence collected, and best practices relative to evaluating student growth to link teacher and school-level professional development plans to evaluation results;

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- 3) Creates, in collaboration with teachers, supportive, targeted professional development plans that consider past results, contribute to professional growth, and assist teachers in aligning professional development and goal-setting to school improvement goals; and
 - 4) Communicates evaluation outcomes and findings in constructive and supportive ways that enable teachers to set goals and improve practice.
- b) Evaluating Professional Practice of Teachers
Each qualified evaluator:
- 1) Demonstrates a high rate of inter-rater reliability using the required performance evaluation ratings (i.e., "excellent", "proficient", "needs improvement", and "unsatisfactory");
 - 2) Observes instruction competently in multiple subject areas provided to varied and multiple student populations (e.g., English language learners, students with Individualized Education Programs, students in career and technical education programs);
 - 3) Uses data from the evaluation rubric, other evidence collected, and best practices relative to evaluating professional practice to link teacher and school-level professional development plans to evaluation results;
 - 4) Creates, in collaboration with teachers, supportive, targeted professional development plans that consider past results, contribute to professional growth, and assist teachers in aligning professional development and goal-setting to school improvement goals;
 - 5) Communicates evaluation outcomes and findings in constructive and supportive ways that enable teachers to set goals and improve professional practice; and
 - 6) Understands sources of personal bias and is able to recognize and control for bias when conducting an evaluation and determining results.
- c) Evaluating Principals and Assistant Principals
Each qualified evaluator:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- 1) Demonstrates a high rate of inter-rater reliability using the required performance evaluation ratings (i.e., "excellent", "proficient", "needs improvement", and "unsatisfactory");
- 2) Uses student growth measures effectively in evaluating both principals and assistant principals, including the use of multiple measures of student growth (e.g., assessments, attendance, graduation rates) and understands how different types of assessments are used for measuring growth;
- 3) Understands the Illinois Standards for Principal Evaluation (see Appendix A of this Part), including the review of evidence and its use to determine professional competence relative to each of the standards' indicators;
- 4) Uses data from the evaluation rubric, other information collected, and best practices for evaluating principals or assistant principals effectively to link administrative and school-level professional development plans to evaluation results;
- 5) Creates, in collaboration with principals or assistant principals, supportive, targeted professional development plans that consider past results, contribute to professional and personal growth, and assist principals or assistant principals in aligning professional development and goal-setting to school improvement goals;
- 6) Reviews, analyzes, and incorporates into the evaluation process indicators about the instructional environment within a school;
- 7) Communicates evaluation outcomes and findings in constructive and supportive ways that enable principals and assistant principals to set goals and improve practice; and
- 8) Understands sources of personal bias and is able to recognize and control for bias when conducting an evaluation and determining results.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

Section 50.APPENDIX A Illinois Standards for Principal Evaluation

The Illinois Standards for Principal Evaluation align to the Educational Leadership Policy Standards: Interstate School Leaders Licensure Consortium (ISLLC) 2008, adopted by the National Policy Board for Educational Administration and posted at <http://www.npbea.org/projects.php> (no later amendments to or editions of these standards are incorporated by this Part). The Illinois Standards for Principal Evaluation are intended to guide the process used in evaluating the professional practice of principals; therefore, any rubric used to formulate a performance evaluation rating shall be aligned to the standards set forth in this Appendix.

Standard I: Living a Mission, Vision and Beliefs for Results

The principal works with the staff and community to build a shared mission and vision of high expectations that ensures all students are on the same path to college and career readiness and holds staff accountable for results.

Indicator a: Coordinates efforts to create and implement a vision for the school and defines desired results and goals that align to the overall school vision and lead to student improvement for all learners.

Indicator b: Ensures that the school's identity, vision, and mission drive school decisions.

Indicator c: Conducts difficult but crucial conversations with individuals, teams, and staff based on student performance data in a timely manner for the purpose of enhancing student learning and results.

Standard II: Leading and Managing Systems Change

The principal creates and implements systems to ensure a safe, orderly, and productive environment for student and adult learning toward the achievement of school and district improvement priorities.

Indicator a: Develops, implements, and monitors the outcomes of the school improvement plan and schoolwide student achievement data results to improve student achievement.

Indicator b: Creates a safe, clean, and orderly learning environment.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

Indicator c: Collaborates with staff to allocate personnel, time, materials, and adult learning resources appropriately to achieve school improvement plan targets.

Standard III: Improving Teaching and Learning

The principal works with the school staff and community to develop a research-based framework for effective teaching and learning that is refined continuously to improve instruction for all students.

Indicator a: Works with staff to develop a consistent framework for effective teaching and learning that includes a rigorous and relevant standards-based curriculum and research-based instructional practice, and high expectations for student performance.

Indicator b: Creates a continuous improvement cycle that uses multiple forms of data and student work samples to support individual, team, and schoolwide improvement goals; identifies and addresses areas of improvement; and celebrates successes.

Indicator c: Implements student interventions that differentiate instruction based on student needs.

Indicator d: Selects and retains teachers with the expertise to deliver instruction that maximizes student learning.

Indicator e: Evaluates the effectiveness of instruction and of individual teachers by conducting frequent formal and informal observations providing timely feedback on instruction, preparation, and classroom environment as part of the district's teacher appraisal system.

Indicator f: Ensures the training, development, and support for high-performing instructional teacher teams to support adult learning and development to advance student learning and performance.

Indicator g: Develops systems and structures for staff professional development and sharing of effective practices, including providing and protecting staff time allotted for development.

Standard IV: Building and Maintaining Collaborative Relationships

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

The principal creates a collaborative school community in which the school staff, families, and community interact regularly and share ownership for the success of the school.

Indicator a: Creates, develops, and sustains relationships that result in active student engagement in the learning process.

Indicator b: Utilizes meaningful feedback of students, staff, families, and community in the evaluation of instructional programs and policies.

Indicator c: Proactively engages families and communities in supporting their children's learning and the school's learning goals.

Indicator d: Demonstrates an understanding of the change process and uses leadership and facilitation skills to manage it effectively.

Standard V: Leading with Integrity and Professionalism

The principal works with the school staff and community to create a positive context for learning by ensuring equity, fulfilling professional responsibilities with honesty and integrity, and serving as a model for the professional behavior of others.

Indicator a: Treats all people fairly, equitably, and with dignity and respect.

Indicator b: Demonstrates personal and professional standards and conduct that enhance the image of the school and the educational profession. Protects the rights and confidentiality of students and staff.

Indicator c: Creates and supports a climate that values, accepts, and understands diversity in culture and point of view.

Standard VI: Creating and Sustaining a Culture of High Expectations

The principal works with staff and the community to build a culture of high expectations and aspirations for every student by setting clear staff and student expectations for positive learning behaviors and by focusing on students' social and emotional learning.

Indicator a: Builds a culture of high aspirations and achievement for every student.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

Indicator b: Requires staff and students to demonstrate consistent values and positive behaviors aligned to the school's vision and mission.

Indicator c: Leads a school culture and environment that successfully develops the full range of students' learning capacities – academic, creative, social and emotional, behavioral, and physical.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

The original statutory authority was part of Public Act 94-677, an omnibus bill that also included medical malpractice caps. After the caps were ruled unconstitutional, PA 94-677's non-severability clause ended the Department's statutory authority, forcing the shutdown of the profile. With the new statutory authority contained in PA 97-280, the Department is reactivating Section 1285.305 to allow the Department to obtain correct, complete and accurate information on the physicians for inclusion in the public profiles.

16) Information and questions regarding this rulemaking shall be directed to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, Illinois 62786

217/785-0813 Fax: 217/557-4451

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONSPART 1285
MEDICAL PRACTICE ACT OF 1987SUBPART A: MEDICAL LICENSING, RENEWAL
AND RESTORATION PROCEDURE

Section	
1285.20	Six Year Post-Secondary Programs of Medical Education
1285.30	Programs of Chiropractic Education
1285.40	Approved Postgraduate Clinical Training Programs
1285.50	Application for Examination
1285.60	Examinations
1285.70	Application for a License on the Basis of Examination
1285.80	Licensure by Endorsement
1285.90	Temporary Licenses
1285.91	Visiting Resident Permits
1285.95	Professional Capacity Standards for Applicants Having Graduated More Than 2 Years Prior to Application
1285.100	Visiting Professor Permits
1285.101	Visiting Physician Permits
1285.105	Chiropractic Physician Preceptorship (Repealed)
1285.110	Continuing Medical Education (CME)
1285.120	Renewals
1285.130	Restoration and Inactive Status
1285.140	Granting Variances

SUBPART B: MEDICAL DISCIPLINARY PROCEEDINGS

Section	
1285.200	Medical Disciplinary Board
1285.205	Complaint Committee
1285.210	The Medical Coordinator
1285.215	Complaint Handling Procedure
1285.220	Informal Conferences
1285.225	Consent Orders

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

1285.230	Summary Suspension
1285.235	Mandatory Reporting of Impaired Physicians by Health Care Institutions
1285.240	Standards
1285.245	Advertising
1285.250	Monitoring of Probation and Other Discipline and Notification
1285.255	Rehabilitation
1285.260	Fines
1285.265	Subpoena Process of Medical and Hospital Records
1285.270	Inspection of Physical Premises
1285.275	Failing to Furnish Information

SUBPART C: GENERAL INFORMATION

Section	
1285.305	Physician Profiles
1285.310	Public Access to Records and Meetings
1285.320	Response to Hospital Inquiries
1285.330	Rules of Evidence
1285.335	Physician Delegation of Authority
1285.336	Use of Lasers
1285.340	Anesthesia Services in an Office Setting

AUTHORITY: Implementing the Medical Practice Act of 1987 [225 ILCS 60] and the Patients' Right to Know Act [225 ILCS 61] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 13 Ill. Reg. 483, effective December 29, 1988; emergency amendment at 13 Ill. Reg. 651, effective January 1, 1989, for a maximum of 150 days; emergency expired May 31, 1989; amended at 13 Ill. Reg. 10613, effective June 16, 1989; amended at 13 Ill. Reg. 10925, effective June 21, 1989; emergency amendment at 15 Ill. Reg. 7785, effective April 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 13365, effective September 3, 1991; amended at 15 Ill. Reg. 17724, effective November 26, 1991; amended at 17 Ill. Reg. 17191, effective September 27, 1993; expedited correction at 18 Ill. Reg. 312, effective September 27, 1993; amended at 20 Ill. Reg. 7888, effective May 30, 1996; amended at 22 Ill. Reg. 6985, effective April 6, 1998; amended at 22 Ill. Reg. 10580, effective June 1, 1998; amended at 24 Ill. Reg. 3620, effective February 15, 2000; amended at 24 Ill. Reg. 8348, effective June 5, 2000; amended at 26 Ill. Reg. 7243, effective April 26, 2002; amended at 28 Ill. Reg. 5857, effective March 29, 2004; amended at 29 Ill. Reg. 18823, effective November 4, 2005; amended at 31 Ill. Reg. 14069, effective September 24, 2007; amended at 33 Ill. Reg. 4971, effective March 19,

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

2009; emergency amendment at 35 Ill. Reg. 14564, effective August 12, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 19500, effective November 17, 2011.

SUBPART C: GENERAL INFORMATION

Section 1285.305 Physician Profiles

- a) The Division shall make available to all physicians as defined in Section [5 of the Patients' Right to Know Act \[225 ILCS 61/5\]](#)~~24.1 of the Act~~ a copy of their physician profile on or before [August 15, 2011](#)~~October 1, 2007~~. Notification and instructions concerning their profile shall be sent to the physician's address of record with the Division. Physicians shall review their profile as it appears on the Division's website, confirm the listed information and input all additional information required as indicated on the website. Any questions or corrections regarding information contained in the profile shall be sent to the Division in writing by the physician.
- b) It is the responsibility of the physician to assure that the information the physician enters into the profile is accurate. Delegation of this task to an employee or designee shall not waive this responsibility.
- c) All physicians shall verify and complete their profile on or before [October 15, 2011](#)~~January 1, 2008~~. Failure to comply with this Section shall be considered a violation of the Act and shall subject the physician to disciplinary proceedings pursuant to Subpart B and a fine of \$500.
- d) On or about [October 19, 2011](#)~~January 1, 2008~~, the Division shall make available to the public all physician profiles regardless of whether the physician has provided verification of the profile content. The Division shall include the following statement in boldface type on any profiles when a physician has failed to verify his or her profile: "This physician has not verified the information in this profile."
- e) All physicians shall be required to have a completed physician profile in accordance with this Section. No renewal application shall be processed without a completed profile.

(Source: Amended at 35 Ill. Reg. 19500, effective November 17, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Real Estate Appraiser Licensing
- 2) Code Citation: 68 Ill. Adm. Code 1455
- 3) Section Number: 1455.320 Adopted Action:
Amendment
- 4) Statutory Authority: Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458]
- 5) Effective Date of Amendment: November 17, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 26, 2011; 35 Ill. Reg. 14235
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: No substantive changes were made to the rulemaking. The rulemaking language was modified for clarification purposes only.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: Under authority in the Dodd-Frank Wall Street Reform and Consumer Protection Act, the federal Appraisal Subcommittee (ASC) approved a modification of the annual National Registry fee to \$40 from the current \$25, effective January 1, 2012. Accordingly, on or after that date, for all new appraiser credentials and all renewals of existing credentials, states are required to collect and transmit to the ASC the modified annual Registry fee of \$40 in order for a credential to be reflected on the National Registry. States were given this delayed effective date to

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

provide a reasonable transition period to implement this Modified Registry fee, which is accomplished by this rulemaking.

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

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, Illinois 62786

217/785-0813 Fax: 217/557-4451

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1455

REAL ESTATE APPRAISER LICENSING

SUBPART A: DEFINITIONS

Section
1455.10 Definitions

SUBPART B: LICENSING REQUIREMENTS

Section
1455.100 Application for a State Certified General Real Estate Appraiser License and a State Certified Residential Real Estate Appraiser License; Application for an Associate Real Estate Trainee Appraiser License; Application by Non-Resident for Licensure by Endorsement

1455.110 Application for Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License; Late Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License; Expiration Date

1455.120 Conversion of a State Licensed Real Estate Appraiser License to an Associate Real Estate Appraiser License; Late Conversion; No Issuance of State Licensed Real Estate Appraiser License (Repealed)

1455.130 Application for Temporary Practice Permit; Term of Permit; Scope of Practice; Regulatory Responsibility; Notice

1455.140 Issuance of Certificate to Real Estate Appraisers; Temporary Practice Permits

SUBPART C: EDUCATION REQUIREMENTS

Section
1455.150 Qualifying Education Requirements; State Certified General Real Estate Appraiser; State Certified Residential Real Estate Appraiser; Associate Real Estate Trainee Appraiser; Non-Resident Qualifying Education

1455.160 Continuing Education Requirements for State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, and Associate Real

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

Estate Trainee Appraiser; Non-Resident Continuing Education Approval

SUBPART D: EXPERIENCE REQUIREMENTS

Section

- 1455.170 Experience Requirements for a State Certified General Real Estate Appraiser License
- 1455.180 Experience Requirements for a State Certified Residential Real Estate Appraiser License
- 1455.190 Verification of Experience Credit
- 1455.200 Acceptable Appraisal Experience Credit

SUBPART E: BUSINESS PRACTICES; STANDARDS AND SCOPE OF PRACTICE

Section

- 1455.210 Notification of Name Change
- 1455.220 Assumed Name
- 1455.230 Address Change; Street Address
- 1455.240 Uniform Standards of Professional Appraisal Practice (USPAP)

SUBPART F: ENFORCEMENT PROVISIONS

Section

- 1455.250 Grounds for Discipline
- 1455.260 Suspension or Denial for Failure to Pay Taxes, Child Support or any Illinois-Guaranteed Student Loan
- 1455.270 Additional Education; Reporting Requirements
- 1455.280 Administrative Warning Letter
- 1455.290 Cooperation Required with the Division
- 1455.300 Felony Convictions; Discipline of Other Professional License; Notification
- 1455.310 Unprofessional Conduct
- 1455.315 Supervisor and Trainee Requirements

SUBPART G: ADMINISTRATIVE PROVISIONS

Section

- 1455.320 Fees
- 1455.330 Granting of Variances
- 1455.340 Duties of the Secretary

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

SUBPART H: EDUCATION PROVIDER AND COURSE PROVISIONS

Section

- 1455.350 Education Provider Application; Requirements
- 1455.360 Qualifying Education Course Requirements of Education Providers
- 1455.370 Qualifying Course Curriculum; State Certified General Real Estate Appraiser; State Certified Residential Real Estate Appraiser; Associate Real Estate Trainee Appraiser
- 1455.380 Examples of Acceptable Pre-License Education Courses (Repealed)
- 1455.390 Continuing Education Course Requirements of Education Providers
- 1455.400 Curriculum for Continuing Education Courses; Continuing Education Credit for Participation Other Than as a Student
- 1455.410 Distance Education
- 1455.420 Expiration Date and Renewal for Education Providers and Qualifying Education and Continuing Education Courses
- 1455.430 Continuing Education Reporting
- 1455.440 Transcript or Certificate of Completion

SUBPART I: TRANSITION PROVISIONS

Section

- 1455.450 Appraiser Applicants – Transition Provisions (Repealed)
- 1455.460 Education Providers, Pre-License and Continuing Education Courses – Transition Provisions (Repealed)

SUBPART J: HEARINGS

Section

- 1455.470 Applicability (Repealed)
- 1455.480 Administrative Law Judges (Repealed)
- 1455.490 Disqualification of an Administrative Law Judge (Repealed)

- 1455.APPENDIX A Caption for a Case Filed by the Division
- 1455.APPENDIX B Caption for a Case Filed by the Petitioner

AUTHORITY: Implementing and authorized by the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

SOURCE: Emergency rules adopted at 16 Ill. Reg. 16196, effective September 30, 1992, for a maximum of 150 days; rules adopted at 17 Ill. Reg. 1589, effective January 26, 1993; emergency amendment at 17 Ill. Reg. 6668, effective April 19, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13494, effective July 30, 1993; amended at 18 Ill. Reg. 2379, effective January 28, 1994; emergency amendment at 18 Ill. Reg. 3006, effective February 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8428, effective May 24, 1994; amended at 19 Ill. Reg. 9176, effective June 26, 1995; emergency amendment at 19 Ill. Reg. 12503, effective August 16, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16604, effective December 1, 1995; amended at 20 Ill. Reg. 6488, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 1685, effective January 27, 1997; amended at 21 Ill. Reg. 5538, effective April 18, 1997; emergency amendment at 22 Ill. Reg. 4132, effective February 4, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998, for a maximum of 150 days; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12979, effective July 1, 1998, for a maximum of 150 days; new Part adopted by emergency rulemaking at 22 Ill. Reg. 13011, effective July 1, 1998, for a maximum of 150 days; old Part repealed and new Part adopted at 22 Ill. Reg. 20815, effective November 20, 1998; old Part repealed at 26 Ill. Reg. 10883 and new Part adopted by emergency rulemaking at 26 Ill. Reg. 10844, effective July 1, 2002, for a maximum of 150 days; old Part repealed at 26 Ill. Reg. 17689 and new Part adopted at 26 Ill. Reg. 17692, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 14653, effective August 29, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 824, effective December 29, 2003; amended at 29 Ill. Reg. 16445, effective October 13, 2005; amended at 31 Ill. Reg. 4741, effective March 9, 2007; amended at 33 Ill. Reg. 7121, effective May 14, 2009; amended at 35 Ill. Reg. 1967, effective January 20, 2011; amended at 35 Ill. Reg. 19505, effective November 17, 2011.

SUBPART G: ADMINISTRATIVE PROVISIONS

Section 1455.320 Fees

- a) Initial application fee for appraiser license.
 - 1) The application fee for an initial license as a State Certified General Real Estate Appraiser ~~and~~ a State Certified Residential Real Estate Appraiser, ~~and an Associate Real Estate Trainee Appraiser~~ shall be \$315, which shall include the National Registry fee~~\$225~~.
 - 2) The application fee for an initial license as an Associate Real Estate Trainee Appraiser shall be \$225.~~In addition to the initial fee for an initial~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

~~applicant as a State Certified General Real Estate Appraiser and a State Certified Residential Real Estate Appraiser prescribed in subsection (a)(1); each applicant shall pay \$75, which shall include the National Registry fee.~~

- b) Renewal application fee for appraiser license.
- 1) The application fee to renew a license as a State Certified General Real Estate Appraiser or a State Certified Residential Real Estate Appraiser shall be calculated at ~~\$265~~\$250 per year, which shall include the National Registry fees.
 - 2) The application to renew an Associate Real Estate Trainee Appraiser License shall be calculated at \$150 per year.
 - 3) The application fee to renew a license that has expired, as a State Certified General Real Estate Appraiser, a State Certified Residential Real Estate Appraiser or an Associate Real Estate Trainee Appraiser shall be the sum of all lapsed renewal fees plus a \$50 late fee.
- c) Application fee for temporary practice permit.
The application fee for a temporary practice permit pursuant to the Act and this Part shall be \$150. There shall be no additional fee required for an extension granted pursuant to the Act and this Part for a temporary practice permit.
- d) Initial application fee for a license as an education provider, a qualifying education course, and a continuing education course.
- 1) The application fee for a license as an education provider shall be \$1050, plus course application fees.
 - 2) The application fee for a license for a qualifying education course shall be \$150.
 - 3) The application fee for a license for a continuing education course shall be \$100.
- e) Application fee to renew a license as an education provider, a qualifying education course, and a continuing education course.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- 1) The application fee to renew a license as an education provider shall be calculated at \$550 per year.
 - 2) The application fee to renew a license that has expired as an education provider shall be the sum of all lapsed renewal fees plus a \$50 late fee.
 - 3) The application fee to renew a license as a qualifying education course shall be calculated at \$100 per year.
 - 4) The application fee to renew a license that has expired as a qualifying education course shall be the sum of all lapsed renewal fees plus a \$50 late fee.
 - 5) The application fee to renew a license as a continuing education course shall be calculated at \$75 per year.
 - 6) The application fee to renew a license that has expired as a continuing education course shall be the sum of all lapsed renewal fees plus a \$50 late fee.
- f) For the purposes of determining if a license has expired under this Section, Department of Financial and Professional Regulation-Division of Professional Regulation (Division) shall consider the license expired if the postmark on the renewal application is a date later than the expiration date or, if delivered other than by mail, the license shall be considered expired if the renewal application is received by the Division on a date later than the expiration date.
- g) General.
- 1) All fees paid pursuant to the Act and this Part are non-refundable.
 - 2) The fee for the issuance of a duplicate license certificate or pocket card, for the issuance of a replacement license certificate or pocket card that has been lost or destroyed, or for the issuance of a license certificate or pocket card with a name or address change, other than during the renewal period, shall be \$25.
 - 3) The fee for a certification of a licensee's record for any purpose shall be

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

\$25.

- 4) The fee for a decorative wall license showing registration shall be the cost of producing the license.
- 5) The fee for a roster of persons licensed under the Act shall be the cost of producing the roster.
- 6) Applicants for an examination as a State Certified General Real Estate Appraiser, a State Certified Residential Real Estate Appraiser, or an Associate Real Estate Trainee Appraiser shall be required to pay a fee covering the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.
- 7) The fee for a copy of the transcript of any proceeding under the Act shall be the cost to produce the copy.
- 8) The fee for certifying any record, e.g., a copy of a disciplinary order or application, shall be \$1 per page.
- 9) The Division may charge an administrative fee not to exceed \$2,000, as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 1455.280 of this Part.

(Source: Amended at 35 Ill. Reg. 19505, effective November 17, 2011)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3) Section Number: 147.150 Adopted Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: December 1, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 13, 2011; 35 Ill. Reg. 7444
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this amendment replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The proposed amendment implements Public Act 96-1530, providing \$222.5 million in additional funds for Minimum Data Set (MDS) reimbursement for nursing facilities.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Jeanette Badrov
General Counsel

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 147

REIMBURSEMENT FOR NURSING COSTS FOR GERIATRIC FACILITIES

Section

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

Facilities

147.TABLE A	Staff Time (in Minutes) and Allocation by Need Level
147.TABLE B	MDS-MH Staff Time (in Minutes and Allocation by Need Level)
147.TABLE C	Comprehensive Resident Assessment (Repealed)
147.TABLE D	Functional Needs and Restorative Care (Repealed)
147.TABLE E	Service (Repealed)
147.TABLE F	Social Services (Repealed)
147.TABLE G	Therapy Services (Repealed)
147.TABLE H	Determinations (Repealed)
147.TABLE I	Activities (Repealed)
147.TABLE J	Signatures (Repealed)
147.TABLE K	Rehabilitation Services (Repealed)
147.TABLE L	Personal Information (Repealed)

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

SOURCE: Recodified from 89 Ill. Adm. Code 140.900 thru 140.912 and 140.Table H and 140.Table I at 12 Ill. Reg. 6956; amended at 13 Ill. Reg. 559, effective January 1, 1989; amended at 13 Ill. Reg. 7043, effective April 24, 1989; emergency amendment at 13 Ill. Reg. 10999, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 16796, effective October 13, 1989; amended at 14 Ill. Reg. 210, effective December 21, 1989; emergency amendment at 14 Ill. Reg. 6915, effective April 19, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 9523, effective June 4, 1990, for a maximum of 150 days; emergency expired November 1, 1990; emergency amendment at 14 Ill. Reg. 14203, effective August 16, 1990, for a maximum of 150 days; emergency expired January 13, 1991; emergency amendment at 14 Ill. Reg. 15578, effective September 11, 1990, for a maximum of 150 days; emergency expired February 8, 1991; amended at 14 Ill. Reg. 16669, effective September 27, 1990; amended at 15 Ill. Reg. 2715, effective January 30, 1991; amended at 15 Ill. Reg. 3058, effective February 5, 1991; amended at 15 Ill. Reg. 6238, effective April 18, 1991; amended at 15 Ill. Reg. 7162, effective April 30, 1991; amended at 15 Ill. Reg. 9001, effective June 17, 1991; amended at 15 Ill. Reg. 13390, effective August 28, 1991; emergency amendment at 15 Ill. Reg. 16435, effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 4035, effective March 4, 1992; amended at 16 Ill. Reg. 6479, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 13361, effective August 14, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 14233, effective August 31, 1992; amended at 16 Ill. Reg. 17332, effective November 6, 1992; amended at 17 Ill. Reg. 1128, effective January 12, 1993; amended at 17 Ill. Reg. 8486, effective June 1, 1993; amended at 17 Ill. Reg. 13498, effective August 6, 1993; emergency amendment at 17 Ill. Reg. 15189, effective

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

September 2, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 2405, effective January 25, 1994; amended at 18 Ill. Reg. 4271, effective March 4, 1994; amended at 19 Ill. Reg. 7944, effective June 5, 1995; amended at 20 Ill. Reg. 6953, effective May 6, 1996; amended at 21 Ill. Reg. 12203, effective August 22, 1997; amended at 26 Ill. Reg. 3093, effective February 15, 2002; emergency amendment at 27 Ill. Reg. 10863, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18680, effective November 26, 2003; expedited correction at 28 Ill. Reg. 4992, effective November 26, 2003; emergency amendment at 29 Ill. Reg. 10266, effective July 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 18913, effective November 4, 2005; amended at 30 Ill. Reg. 15141, effective September 11, 2006; expedited correction at 31 Ill. Reg. 7409, effective September 11, 2006; amended at 31 Ill. Reg. 8654, effective June 11, 2007; emergency amendment at 32 Ill. Reg. 415, effective January 1, 2008, for a maximum of 150 days; emergency amendment suspended at 32 Ill. Reg. 3114, effective February 13, 2008; emergency suspension withdrawn in part at 32 Ill. Reg. 4399, effective February 26, 2008 and 32 Ill. Reg. 4402, effective March 11, 2008 and 32 Ill. Reg. 9765, effective June 17, 2008; amended at 32 Ill. Reg. 8614, effective May 29, 2008; amended at 33 Ill. Reg. 9337, effective July 1, 2009; emergency amendment at 33 Ill. Reg. 14350, effective October 1, 2009, for a maximum of 150 days; emergency amendment modified in response to the objection of the Joint Committee on Administrative Rules at 34 Ill. Reg. 1421, effective January 5, 2010, for the remainder of the 150 days; emergency expired February 27, 2010; amended at 34 Ill. Reg. 3786, effective March 14, 2010; amended at 35 Ill. Reg. 19514, effective December 1, 2011.

Section 147.150 Minimum Data Set (MDS) Based Reimbursement System

- a) Public Act 94-0964 requires the Department to implement, effective January 1, 2007, a payment methodology for the nursing component of the rate paid to nursing facilities. Except for nursing facilities that are defined as Class I Institutions for Mental Diseases (IMDs) pursuant to 89 Ill. Adm. Code 145.30, reimbursement for the nursing component shall be calculated using the Minimum Data Set (MDS). Increased reimbursement under this payment methodology shall be paid only if specific appropriation for this purpose is enacted by the General Assembly.
- b) Except as referenced in subsection (c)(1)(E)(iv) of this Section, the nursing component of the rate shall be calculated and adjusted quarterly. The determination of rates shall be based upon a composite of MDS data collected from each eligible resident in accordance with Section 147. Table A for those eligible residents who are recorded in the Department's Medicaid Management Information System as of 30 days prior to the rate period as present in the facility on the last day of the second quarter

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

preceding the rate period. Residents for whom MDS resident identification information is missing or inaccurate, or for whom there is no current MDS record for that quarter, shall be placed in the lowest MDS acuity level for calculation purposes for that quarter.

- c) Per diem reimbursement rates for nursing care in nursing facilities consist of three elements: variable time reimbursement; fringe benefit reimbursement; and reimbursement for supplies, consultants, medical directors and nursing directors.
- 1) Variable Time Reimbursement.
Variable nursing time is that time necessary to meet the major service needs of residents that vary due to their physical or mental conditions. Each need level or specific nursing service measured by the Resident Assessment Instrument is associated with an amount of time and staff level (Section 147. Table A). Reimbursement is developed by multiplying the time for each service by the wages of the type of staff performing the service except for occupational therapy, physical therapy and speech therapy. If more than one level of staff are involved in delivering a service, reimbursement for that service will be weighted by the wage and number of minutes allocated to each staff type. In calculating a facility's rate, the figures used by the Department for wages will be determined in the following manner:
- A) The mean wages for the applicable staff levels (RNs, LPNs, certified nursing assistants (CNAs), activity staff, social workers), as reported on the cost reports and determined by regional rate area, will be the mean wages.
- B) Fringe benefits will be the average percentage of benefits to actual salaries of all nursing facilities based upon cost reports filed pursuant to 89 Ill. Adm. Code 140.543. Fringe benefits will be added to the mean wage.
- C) The base wage, including fringe benefits, will then be updated for inflation from the time period for which the wage data are available to the midpoint of the rate year to recognize projected base wage changes.
- D) Special minimum wage factor. The process used in subsection

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

(c)(1)(A) of this Section to determine regional mean wages for RNs, LPNs and CNAs will include a minimum wage factor. For those facilities below 90% of the Statewide average, the wage is replaced by 90% of the Statewide average.

- E) Beginning January 1, 2007, facilities shall be paid a rate based upon the sum of the following:
- i) the facility MDS-based rate multiplied by the ratio the numerator of which is the quotient obtained by dividing the additional funds appropriated specifically to pay for rates based upon the MDS nursing component methodology above the December 31, 2006 funding by the total number of Medicaid patient days utilized by facilities covered by the MDS-based system and the denominator of which is the difference between the weighted mean rate obtained by the MDS-based methodology and the weighted mean rate in effect on December 31, 2006.
 - ii) the facility rate in effect on December 31, 2006, which is defined as the facility rate in effect on December 31, 2006 plus the exceptional care reimbursement per diem computed in 89 Ill. Adm. Code 140.569(a)(1), multiplied by one minus the ratio computed in Section 147.150(c)(1)(E)(i). The exceptional care reimbursement per diem effective January 1, 2007 computed in 89 Ill. Adm. Code 140.569 shall be included in the nursing component of the June 30, 2006 rate unless the total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section is more than a five percent drop from the total variable nursing time calculated for the June 30, 2006 rate quarter. Then the facility will receive for the rate period zero percent of the exceptional care reimbursement per diem computed in 89 Ill. Adm. Code 140.569.
 - iii) Until October 1, 2009, for facilities in which the number of ventilator care residents in any quarter has increased over the number used to compute the exceptional care per diem

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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

iv) The calculations referenced in subsections (c)(1)(E)(i) and (ii) of this Section shall only change annually.

F) The annual amount of new funds allocated for MDS reimbursement methodology beginning January 1, 2007 is \$60 million. The annual amount of new funds allocated for MDS reimbursement methodology beginning January 1, 2008 is \$50 million. The annual amount of new funds for MDS reimbursement methodology beginning January 1, 2009 is \$84 million. [Subject to approval by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, the annual amount of new funds for MDS reimbursement methodology, beginning May 1, 2011, is \\$222.5 million.](#)

- 2) Vacation, Sick Leave and Holiday Time.
The time to be added for vacation, sick leave, and holidays will be determined by multiplying the total of variable time by 5%.
- 3) Special Supplies, Consultants and the Director of Nursing.
Reimbursement will be made for health care and program supplies, consultants required by the Department of Public Health (including the Medical Director), and the Director of Nursing by applying a factor to

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

variable time and vacation, sick leave and holiday time. (A list of consultants required by the Department of Public Health can be found in 77 Ill. Adm. Code 300.830.)

- A) Supplies will be updated for inflation using the General Services Inflator (see 89 Ill. Adm. Code 140.551). Health care and program salaries shall be updated for inflation using the Nursing and Program Inflator (see 89 Ill. Adm. Code 140.552). A factor for supplies will be the Statewide mean of the ratio of total facility health care and programs supply costs to total facility health care and programs salaries.
 - B) The Director of Nursing and the consultants will be updated for inflation using the Nursing and Program Inflator (see 89 Ill. Adm. Code 140.552). A factor for the Director of Nursing and consultant costs shall be the Statewide mean of the ratio of all facilities' Director of Nursing and consultant costs to total facility health care and programs salaries.
 - C) These costs shall be updated pursuant to cost reports as referenced in 89 Ill. Adm. Code 153.125(f).
- d) **Determination of Facility Rates.**
An amount for each resident will be calculated by multiplying the number of minutes from the assessment by the appropriate wages for each assessment item (see subsection (c)(1) of this Section), adding the amounts for vacation, sick and holiday time (see subsection (c)(2) of this Section), and supplies, consultants, and the Director of Nursing (see subsection (c)(3) of this Section). The average of the rates for eligible residents assessed will become the facility's per diem reimbursement rate for each eligible resident in the facility.
- e) A transition period from the payment methodology in effect on June 30, 2003 to the payment methodology in effect July 1, 2003 shall be provided for a period not exceeding December 31, 2006, as follows:
- 1) MDS-based rate adjustments under this Section shall not be effective until the attainment of a threshold. The threshold shall be attained at the earlier of either:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- A) when all nursing facilities have established a rate (sum of all components) which is no less than the rate effective June 30, 2002, or
 - B) January 1, 2007.
- 2) For a facility that would receive a lower nursing component rate per resident day under the payment methodology effective July 1, 2003 than the facility received June 30, 2003, the nursing component rate per resident day for the facility shall be held at the level in effect on June 30, 2003 until a higher nursing component rate of reimbursement is achieved by that facility.
 - 3) For a facility that would receive a higher nursing component rate per resident day under the payment methodology in effect on July 1, 2003 than the facility received June 30, 2003, the nursing component rate per resident day for the facility shall be adjusted based on the payment methodology in effect July 1, 2003.
 - 4) Notwithstanding subsections (e)(2) and (3) of this Section, the nursing component rate per resident day for the facility shall be adjusted in accordance with subsection (c)(1)(E) of this Section.

(Source: Amended at 35 Ill. Reg. 19514, effective December 1, 2011)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 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 Amendment: December 1, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 13, 2011; 35 Ill. Reg. 7454
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This rulemaking implements provisions of Public Act 96-1530, and provides that effective May 1, 2011, Medicaid certified Institution for Mental Diseases (IMDs) 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

approval by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

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

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

217/782-1233

The full text of the 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,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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.

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.
- 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;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 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.
 - 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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

(Source: Amended at 35 Ill. Reg. 19524, effective December 1, 2011)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Individualized Plan for Employment (IPE)
- 2) Code Citation: 89 Ill. Adm. Code 572
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
572.10	Amendment
572.30	Amendment
572.50	Amendment
572.60	Amendment
572.70	Amendment
572.80	Amendment
572.90	Amendment
572.100	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)]
- 5) Effective Date of Amendments: November 18, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency' principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: 35 Ill. Reg. 711; January 14, 2011
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No changes were made.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: This rulemaking pertains to the Division of Rehabilitation Services and is amended to update language to reflect currently used terms such as "case file" to "case record" and "vocational goal" to "employment outcome". This rulemaking also removes the definition of "substantial services" and places it in 89 Ill. Adm. Code 521, Program Definitions.
- 16) Information and questions regarding this rulemaking shall be directed to:
- Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762
- 217/785-9772
- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATIONPART 572
INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE)

Section

572.10	General Applicability
572.20	Commencement of the IPE
572.30	Purpose of the IPE
572.40	Coordination of the IPE with an Individualized Educational Program (IEP)
572.50	IPE Development and Content
572.60	Format of the IPE
572.70	Services to Families
572.80	IPE Amendments
572.90	Notice of Changes to the IPE
572.100	Case RecordFile Documentation
572.110	Review of IPE
572.200	Reporting of Customer Participation (Repealed)

AUTHORITY: Implementing and authorized by Section 3(a), (b) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].

SOURCE: Adopted at 9 Ill. Reg. 8801, effective June 10, 1985; amended at 11 Ill. Reg. 5144, effective March 17, 1987; amended at 14 Ill. Reg. 18561, effective November 5, 1990; amended at 15 Ill. Reg. 17367, effective November 19, 1991; emergency amendments at 17 Ill. Reg. 11770, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20438, effective November 15, 1993; amended at 19 Ill. Reg. 7963, effective June 2, 1995; amended at 20 Ill. Reg. 6311, effective April 18, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 1656, effective January 20, 1999; amended at 23 Ill. Reg. 12631, effective September 29, 1999; amended at 29 Ill. Reg. 15959, effective October 7, 2005; amended at 32 Ill. Reg. 10080, effective June 26, 2008; amended at 35 Ill. Reg. 19533, effective November 18, 2011.

Section 572.10 General Applicability

Rules contained within this Part are applicable to all Department of Human Services-
[DivisionOffice](#) of Rehabilitation Services (DHS-[DRSORS](#)) Vocational Rehabilitation (VR)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

customers.

(Source: Amended at 35 Ill. Reg. 19533, effective November 18, 2011)

Section 572.30 Purpose of the IPE

- a) The IPE is a non-binding agreement between the customer and DHS-~~DRSORS~~ that outlines the nature and scope of vocational rehabilitation services to be provided to the customer to meet the established objectives that are related to the customer's ~~employment outcome~~vocational goal.
- b) The IPE identifies the program of services that will assist the individual to achieve an employment ~~outcome~~objective consistent with the customer's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choices.
- c) The IPE will provide the customer with substantial services as defined in 89 Ill. Adm. Code 521. ~~Substantial services are defined as services that, provided in the context of the counseling relationship, collectively and significantly contribute to the achievement of an employment outcome consistent with the informed choice of the individual.~~

(Source: Amended at 35 Ill. Reg. 19533, effective November 18, 2011)

Section 572.50 IPE Development and Content

- a) The IPE must be developed, agreed to and signed by the customer, or, as appropriate, the customer's parent, family member, guardian, advocate, or authorized representative, and approved and signed by the counselor. The IPE shall be developed and implemented in a manner that affords the customer the opportunity to exercise informed choice (89 Ill. Adm. Code 557.20) in selecting an employment outcome, the specific vocational services to be provided, the provider of the services and the methods used to provide services.
- b) The IPE must contain the following:
 - 1) a statement of the specific employment outcome that is chosen by the customer based on the assessment ~~of rehabilitation needs~~ (89 Ill. Adm. Code 553.100), including an assessment of the customer's career interests.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

The goal shall be, to the maximum extent possible, an employment outcome in an integrated setting;

- 2) timelines for the initiation of the services and for the achievement of the employment outcome;
 - 3) the customer's rights and remedies, including filing of an appeal under 89 Ill. Adm. Code 510;
 - 4) a description of the Client Assistance Program (CAP), its services, and how to contact CAP;
 - 5) a statement of the specific VR services to be provided;
 - 6) identification of the entity or entities that will provide VR services to the customer and how the customer will receive the specific services, including comparable benefits (e.g., by attending an on-site training program, by office visits to a medical services provider, etc.). This shall include a statement describing how service shall be provided or arranged through cooperative agreements with other service providers;
 - 7) how progress toward achieving the employment outcome will be evaluated;
 - 8) an assessment, and a reassessment prior to case closure, of the expected need for post-employment services. If post-employment services are to be provided, the IPE must include a description of the terms and conditions for the provision of any post-employment services, including the anticipated duration of those services; and
 - 9) a description of the terms and conditions under which services will be provided to the customer in the most integrated setting possible.
- c) When the IPE includes supported employment services as defined in 89 Ill. Adm. Code 521.20, the IPE must include the elements in subsection (b), as well as the following components:
- 1) the specific supported employment services to be provided;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) the number of hours the individual is expected to work by the time of transition to extended services;
 - 3) the expected extended services needed, which may include natural supports, as well as a description of the source of the extended services;
 - 4) a support reduction schedule that identifies the anticipated change in the level of support required by the individual during the time period covered by the IPE;
 - 5) a description of a method for periodic monitoring of the individual in order to ensure satisfactory progress toward achievement of the hourly work target described in subsection (c)(2); and
 - 6) a description of any job skills training that will be provided at the job.
- d) The IPE must be developed as soon as possible, but no later than 90 days after the customer is determined eligible for the VR program, except when the customer is a high school student receiving transition services, in which case the IPE must be developed no later than the last semester of the year in which the student is expected to leave school.
- e) In unusual circumstances, the Chief of the Bureau of Field Services or the Bureau of Blind Services may grant an exception to the timeline in subsection (d) upon request and when an appropriate justification is provided by the counselor with acknowledgement from the customer.

(Source: Amended at 35 Ill. Reg. 19533, effective November 18, 2011)

Section 572.60 Format of the IPE

- a) A copy of the original IPE and any amendments must be provided to the customer and must, to the maximum extent possible, be provided in the customer's native language and mode of communication, or, as appropriate, in the native language and mode of communication of the parent, family member, guardian, advocate or authorized representative.
- b) When a non-English print version of any form or document, including the IPE, is used to meet the customer's needs and is placed in the case recordfile, an English

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

print copy must also be completed by the rehabilitation counselor/instructor and placed with the non-English print version in the case [recordfile](#).

(Source: Amended at 35 Ill. Reg. 19533, effective November 18, 2011)

Section 572.70 Services to Families

DHS-~~DRSORS~~ shall provide VR services as contained in 89 Ill. Adm. Code: Chapter IV, Subchapter b, "Vocational Rehabilitation" to a customer's family members only when those services are necessary to assist the customer in attaining or retaining a suitable employment outcome.

(Source: Amended at 35 Ill. Reg. 19533, effective November 18, 2011)

Section 572.80 IPE amendments

- a) Any change to an individual's planned program of services, vocational goals, or service providers requires an amendment to the IPE. The case [recordfile](#) must have documentation reflecting the reason for the amendment. Closures require an IPE amendment.
- b) Any amendments or revisions resulting from an annual review (89 Ill. Adm. Code 572.110) shall not take effect until the changes are agreed to and signed by the customer or, as appropriate, the parent, family member, guardian, advocate or authorized representative.

(Source: Amended at 35 Ill. Reg. 19533, effective November 18, 2011)

Section 572.90 Notice of Changes to the IPE

Notification of any DHS-~~DRSORS~~-initiated change to the IPE must be provided to the customer. Such notification must be made in writing at least 15 work days prior to the effective date of change unless the customer has signed the IPE indicating agreement with the change. The notification must conform to 89 Ill. Adm. Code 510.60(d) and include a description of CAP services and how to contact CAP.

(Source: Amended at 35 Ill. Reg. 19533, effective November 18, 2011)

Section 572.100 Case [RecordFile](#) Documentation

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

| The customer's case [recordfile](#) must contain documentation and justification for any decision to provide, deny, or alter any services.

(Source: Amended at 35 Ill. Reg. 19533, effective November 18, 2011)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System
- 2) Code Citation: 80 Ill. Adm. Code 1650
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1650.3100	New
1650.3105	New
1650.3110	New
1650.3115	New
1650.3120	New
1650.3125	New
- 4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/16]
- 5) Effective Date of Amendments: November 18, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Teachers' Retirement System's principal office and are available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 26, 2011; 35 Ill. Reg. 14259
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

- 15) Summary and Purpose of Rulemaking: The adopted rules are required for the System to be considered a qualified governmental pension plan under the provisions of Section 401(a) of the Internal Revenue Code (see also 40 ILCS 5/1-116, 1-116.1 and 117).
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Thomas S. Gray, General Counsel
Teachers' Retirement System of the State of Illinois
2815 West Washington
Springfield, Illinois 62794-9253

217/753-0375

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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

PART 1650

THE ADMINISTRATION AND OPERATION OF THE
TEACHERS' RETIREMENT SYSTEM

SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section

1650.10 Annual Financial Report (Repealed)

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section

1650.110 Membership Records
1650.120 Claims Records (Repealed)
1650.130 Individual Accounts (Repealed)
1650.140 Ledger and Accounts Books (Repealed)
1650.150 Statistics (Repealed)
1650.160 Confidentiality of Records
1650.180 Filing and Payment Requirements
1650.181 Early Retirement Incentive Payment Requirements (Repealed)
1650.182 Waiver of Additional Amounts Due
1650.183 Definition of Employer's Normal Cost

SUBPART C: FILING OF CLAIMS

Section

1650.201 Disability Benefits – Application Procedure; Effective Date
1650.202 Disability Benefits – Definitions
1650.203 Disability Retirement Annuity – Definitions
1650.204 Gainful Employment – Consequences
1650.205 Medical Examinations and Investigation of Disability Claims
1650.206 Physician Certificates
1650.207 Disability Due to Pregnancy
1650.208 Disability Payments
1650.209 Computation of Annual Salary When Member Has Different Semester Salary

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

	Rates (Repealed)
1650.210	Claim Applications
1650.211	Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity
1650.220	Reclassification of Disability Claim (Repealed)
1650.221	When Member Becomes Annuitant
1650.222	Death Out of Service
1650.230	Medical Examinations and Investigations of Claims (Repealed)
1650.240	Refunds; Canceled Service; Repayment
1650.250	Death Benefits
1650.260	Evidence of Age
1650.270	Reversionary Annuity – Evidence of Dependency
1650.271	Evidence of Parentage
1650.272	Eligible Child Dependent By Reason of a Physical or Mental Disability
1650.280	Evidence of Marriage
1650.290	Offsets

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section	
1650.301	Early Retirement Without Discount – Return to Teaching from a Break in Service
1650.310	Effective Date of Membership
1650.315	Verifying Service Credit
1650.320	Method of Calculating Service Credits
1650.325	Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
1650.330	Duplicate Service Credit
1650.335	Unreported Regular Service Credit and Earnings
1650.340	Service Credit for Leaves of Absence
1650.341	Service Credit for Involuntary Layoffs
1650.345	Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346	Service Credit for Periods Away From Teaching Due to Adoption
1650.350	Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.351	Employer Contribution for Excess Sick Leave
1650.355	Purchase of Optional Service – Required Minimum Payment
1650.356	Payroll Deduction Program (Repealed)
1650.357	Employer Payment of Member's Optional Service and/or Upgrade Contribution Balance (Repealed)
1650.360	Settlement Agreements and Judgments
1650.370	Calculation of Average Salary (Renumbered)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

- 1650.380 Definition of Actuarial Equivalent (Repealed)
- 1650.390 Independent Contractors
- 1650.391 Optional 2.2 Upgrade of Earned and Credited Service
- 1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section

- 1650.410 Return of Contributions for Duplicate or Excess Service
- 1650.415 Return of Optional Increase in Retirement Annuity Contributions
- 1650.416 Optional Increase in Retirement Annuity – 1% Contribution Reduction
- 1650.417 Mandatory Distributions Pursuant to Section 401(a)(9) of the Internal Revenue Code
- 1650.420 Interest on Deficiencies (Repealed)
- 1650.430 Installment Payments (Repealed)
- 1650.440 Small Deficiencies, Credits or Death Benefit Payments (Repealed)
- 1650.450 Compensation Recognized As "Salary"
- 1650.451 Reporting of Conditional Payments
- 1650.460 Calculation of Average Salary
- 1650.470 Rollover Distributions
- 1650.480 Rollovers to the System
- 1650.481 Employer Contribution Required for Salary Increases in Excess of 6%
- 1650.482 Contracts and Collective Bargaining Agreements – Loss of Exemption from Employer Contributions
- 1650.483 Employer Contributions for Salary Increases in Excess of 6% and Excess Sick Leave Exemption from Contributions
- 1650.484 Members Not Covered by Collective Bargaining Agreements or Employment Contracts
- 1650.485 Employer Contributions for Salary Increases in Excess of 6% – Receipt of Bill

SUBPART F: ANNUITANTS AND BENEFICIARIES

Section

- 1650.505 Beneficiary (Repealed)
- 1650.510 Re-entry Into Service (Repealed)
- 1650.511 Separation from Service
- 1650.512 Verification of Compliance with Post-Retirement Employment Limitations
- 1650.520 Suspension of Benefits
- 1650.530 Power of Attorney

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

1650.540	Conservators/Guardians
1650.550	Presumption of Death
1650.560	Benefits Payable on Death
1650.561	Valid Beneficiary Designations
1650.570	Survivors' Benefits
1650.571	Payment of Monthly Survivor Benefits to a Trust
1650.575	Full-time Student – Receipt of Survivors Benefits Until Age 22
1650.580	Evidence of Eligibility
1650.590	Comptroller Offset
1650.595	Overpayments

SUBPART G: ATTORNEY GENERALS' OPINION

Section	
1650.605	Policy of the Board Concerning Attorney Generals' Opinion (Repealed)

SUBPART H: ADMINISTRATIVE REVIEW

Section	
1650.610	Staff Responsibility
1650.620	Right of Appeal
1650.630	Form of Written Request
1650.635	Presiding Hearing Officer – Duties and Responsibilities
1650.640	Prehearing Procedure
1650.641	Claims Hearing Committee Hearing Packet
1650.650	Hearing Procedure
1650.660	Rules of Evidence (Repealed)

SUBPART I: AMENDMENTS TO BYLAWS AND RULES

Section	
1650.710	Amendments

SUBPART J: RULES OF ORDER

Section	
1650.810	Parliamentary Procedure

SUBPART K: PUBLIC RECORD REQUESTS

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

Section

- 1650.910 Summary and Purpose (Repealed)
- 1650.920 Definitions (Repealed)
- 1650.930 Submission of Requests
- 1650.940 Form and Content of FOIA Requests (Repealed)
- 1650.950 Appeal of a Denial (Repealed)
- 1650.960 Executive Director's Response to Appeal (Repealed)
- 1650.970 Response to FOIA Requests (Repealed)
- 1650.980 Inspection of Records at System Office
- 1650.990 Copies of Public Records
- 1650.995 Materials Immediately Available

SUBPART L: BOARD ELECTION PROCEDURES

Section

- 1650.1000 Nomination of Candidates
- 1650.1001 Elections Date/Election Day – Defined
- 1650.1010 Petitions
- 1650.1020 Eligible Voters
- 1650.1030 Election Materials
- 1650.1040 Marking of Ballots
- 1650.1050 Return of Ballots
- 1650.1060 Observation of Ballot Counting
- 1650.1070 Certification of Ballot Counting
- 1650.1080 Challenges to Ballot Counting
- 1650.1090 Special Election to Fill Un-Expired Term of Elected Trustee

SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

- 1650.1110 Definitions
- 1650.1111 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1650.1112 Requirements for a Valid QILDRO Calculation Order
- 1650.1113 Required Forms
- 1650.1114 Filing a QILDRO or a Calculation Order with the System
- 1650.1115 Benefits Affected by a QILDRO
- 1650.1116 Effect of a Valid QILDRO
- 1650.1117 QILDROs Against Persons Who Became Members Prior to July 1, 1999

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

1650.1118	Alternate Payee's Address
1650.1119	Electing Form of Payment
1650.1120	Automatic Annual Increases
1650.1121	Reciprocal Systems QILDRO Policy Statement (Repealed)
1650.1122	Providing Benefit Information for Divorce Purposes
1650.1123	Suspension and Expiration of a QILDRO
1650.1124	Income Tax Reporting
1650.1125	Lump-Sum Death Benefit Allocation to Alternate Payee

SUBPART N: PAYROLL DEDUCTION PROGRAM

Section	
1650.1200	Payroll Deduction Program Guidelines
1650.1201	Employer Responsibility Under the Payroll Deduction Program
1650.1202	Payroll Deduction Agreements – Suspensions and Terminations
1650.1203	Payroll Deduction Program – Full Time Employment Defined
1650.1204	Payroll Deduction Program – Disability Defined
1650.1205	Employer Payment of Member's Optional Service, Refund and/or Upgrade Contribution Balance

SUBPART O: RETIREMENT BENEFITS

Section	
1650.2900	Excess Benefit Arrangement

SUBPART P: COMPETITIVE SELECTION PROCEDURES
FOR INVESTMENT SERVICES

Section	
1650.3000	Summary and Purpose
1650.3005	Definitions
1650.3010	Manager Database
1650.3015	Emerging Investment Managers
1650.3020	Public Market Searches
1650.3025	Small and Mid Cap Equity Searches
1650.3030	Private Market and Commingled Fund Searches
1650.3035	Private Market Real Estate Separate Account Searches
1650.3040	Consultant Searches
1650.3045	Evaluation by Investment Committee

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

SUBPART Q: PLAN QUALIFICATION

1650.3100	Summary and Purpose
1650.3105	Exclusive Benefit Rule
1650.3110	USERRA (Uniformed Services Employment and Reemployment Rights Act (38 USC 4301-4335) Compliance
1650.3115	Required Minimum Distributions
1650.3120	Federal Contribution and Benefit Limitations
1650.3125	Mortality Tables and Interest Rates

AUTHORITY: Implementing and authorized by Articles 1 and 16 of the Illinois Pension Code [40 ILCS 5/Arts. 1 and 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 24 Ill. Reg. 2440, effective January 27, 2000; amended at 24 Ill. Reg. 10300, effective June 26, 2000; amended at 25 Ill. Reg. 203, effective December 22, 2000; amended at 26 Ill. Reg. 2758, effective February 11, 2002; amended at 26 Ill. Reg. 11476, effective July 11, 2002; amended at 27 Ill. Reg. 1668, effective January 17, 2003; amended at 27 Ill. Reg. 9209, effective May 28, 2003; amended at 28 Ill. Reg.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

10055, effective June 29, 2004; amended at 29 Ill. Reg. 1546, effective January 14, 2005; amended at 29 Ill. Reg. 13244, effective August 9, 2005; amended at 30 Ill. Reg. 194, effective December 23, 2005; amended at 30 Ill. Reg. 472, effective December 21, 2005; amended at 30 Ill. Reg. 11728, effective June 23, 2006; amended at 30 Ill. Reg. 17525, effective October 18, 2006; amended at 31 Ill. Reg. 10688, effective July 13, 2007; amended at 32 Ill. Reg. 4073, effective February 28, 2008; amended at 32 Ill. Reg. 7979, effective May 6, 2008; amended at 32 Ill. Reg. 13534, effective August 6, 2008; amended at 33 Ill. Reg. 4401, effective March 3, 2009; amended at 33 Ill. Reg. 15863, effective November 2, 2009; amended at 34 Ill. Reg. 4900, effective March 22, 2010; amended at 34 Ill. Reg. 7787, effective May 21, 2010; amended at 35 Ill. Reg. 2413, effective January 21, 2011; amended at 35 Ill. Reg. 2788, effective January 25, 2011; amended at 35 Ill. Reg. 3781, effective February 18, 2011; amended at 35 Ill. Reg. 19541, effective November 18, 2011.

SUBPART Q: PLAN QUALIFICATIONSection 1650.3100 Summary and Purpose

- a) This Subpart Q is intended to implement compliance requirements imposed on the Teachers' Retirement System of the State of Illinois (System) by the United States Internal Revenue Service (IRS). On April 13, 2011, the System received a favorable determination letter reflecting the view of the IRS that the System complies in form with the applicable requirements for qualification under the Internal Revenue Code of 1986, as amended (26 USC). In connection with the determination letter application, the System submitted to the IRS proposed amendments to the provisions of Article 16 of the Illinois Pension Code [40 ILCS 5/16]. The IRS approved those proposed amendments by issuing a compliance statement, and adoption of the proposed amendments is necessary for continued reliance on the IRS compliance statement and favorable determination letter. While the System worked diligently to seek legislative enactment, the proposed amendments to Article 16 of the Illinois Pension Code have not yet been enacted by action of the Illinois General Assembly and signature by the Illinois Governor.
- b) The System therefore requested, and the IRS has issued, a revised compliance statement approving adoption of the proposed amendments to be made to the Illinois Administrative Code, rather than to the Illinois Pension Code. To ensure the continued qualification of the retirement plan administered by the System and continued reliance on the IRS compliance statement and favorable determination letter, the purpose of this Subpart Q is to promulgate the required amendments to the System regarding the plan qualification requirements.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

(Source: Added at 35 Ill. Reg. 19541, effective November 18, 2011)

Section 1650.3105 Exclusive Benefit Rule

Prior to the satisfaction of all liabilities to members or their beneficiaries, no part of the corpus or income of the System shall be used for, or diverted to, purposes other than for the exclusive benefit of the System's members, annuitants and beneficiaries.

(Source: Added at 35 Ill. Reg. 19541, effective November 18, 2011)

Section 1650.3110 USERRA (Uniformed Services Employment and Reemployment Rights Act (38 USC 4301-4335)) Compliance

The provisions of 40 ILCS 5/1-118 (veterans' rights) shall be effective with respect to the System beginning December 12, 1994.

(Source: Added at 35 Ill. Reg. 19541, effective November 18, 2011)

Section 1650.3115 Required Minimum Distributions

The provisions of 40 ILCS 5/1-116.1 (required distributions) shall be effective with respect to the System beginning January 1, 1987.

(Source: Added at 35 Ill. Reg. 19541, effective November 18, 2011)

Section 1650.3120 Federal Contribution and Benefit Limitations

The System shall comply with the applicable contribution and benefit limitations imposed by section 415 of the Internal Revenue Code. This Section is effective for years beginning January 1, 1976 through January 14, 1991 (the effective date of 40 ILCS 5/1-116).

(Source: Added at 35 Ill. Reg. 19541, effective November 18, 2011)

Section 1650.3125 Mortality Tables and Interest Rates

The mortality tables and interest rates adopted by the Board of Trustees of the System from time to time in accordance with 40 ILCS 5/16-122 shall apply to 40 ILCS 5/16 as though such provisions were fully set forth in 40 ILCS 5/16. This Section applies beginning July 1, 1984.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

(Source: Added at 35 Ill. Reg. 19541, effective November 18, 2011)

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Meat and Poultry Inspection Act
- 2) Code Citation: 8 Ill. Adm. Code 125
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
125.260	Amendment
125.380	Amendment
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute that Requires this Peremptory Rulemaking: The Meat and Poultry Inspection Act [225 ILCS 650]; the Federal Meat Inspection Act (21 USCA 661); the Federal Poultry Products Inspection Act (21 USCA 454); and 75 FR 82148 (2010)
- 5) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 650]
- 6) Effective Date: January 1, 2012
- 7) A Complete Description of the Subjects and Issues Involved: In order to maintain an "equal to" status with the federal meat and poultry products inspection program as required by the Federal Meat Inspection Act and the Federal Poultry Products Inspection Act and as required by Section 16 of the Meat and Poultry Inspection Act, the Department is adopting amendments to the federal meat and poultry products in section rules.

The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to require nutrition labeling of the major cuts of single-ingredient, raw meat and poultry products on labels or at point-of-purchase, unless an exemption applies. FSIS is also amending its regulations to require nutrition labels on all ground or chopped meat and poultry products, with or without added seasonings, unless an exemption applies. In addition, the rule provides that, when a ground or chopped product does not meet the regulatory criteria to be labeled "low fat," a lean percentage statement may be included on the label or in labeling as long as a statement of the fat percentage that meets the specified criteria also is displayed on the label or in labeling.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed with the Index Department: November 28, 2011

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- 10) A copy of the preemptory amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 11) These preemptory amendments are in compliance with Section 5-150 of the Illinois Administrative Procedure Act.
- 12) Are there any other proposed rulemakings pending to this Part? No
- 13) Statement of Statewide Policy Objectives: These preemptory amendments do not affect units of local government.
- 14) Information and questions regarding these preemptory amendments shall be directed to:

Linda Rhodes
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield, IL 62794-9281

217/785-5713
217/785-4505 (fax)

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

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER c: MEAT AND POULTRY INSPECTION ACTPART 125
MEAT AND POULTRY INSPECTION ACTSUBPART A: GENERAL PROVISIONS FOR BOTH
MEAT AND/OR POULTRY INSPECTION

Section	
125.10	Definitions
125.20	Incorporation by Reference of Federal Rules
125.30	Application for License; Approval
125.40	Official Number
125.50	Inspections; Suspension or Revocation of License
125.60	Administrative Hearings; Appeals (Repealed)
125.70	Assignment and Authority of Program Employees
125.80	Schedule of Operations; Overtime
125.90	Official Marks of Inspection, Devices and Certificates
125.100	Records and Reports
125.110	Exemptions
125.120	Disposal of Dead Animals and Poultry
125.130	Reportable Animal and Poultry Diseases
125.140	Detention; Seizure; Condemnation
125.141	Sanitation Standard Operating Procedures (SOP's)
125.142	Hazard Analysis and Critical Control Point (HACCP) Systems
125.143	Imported Products
125.144	Preparation and Processing Operations
125.145	Control of Listeria Monocytogenes in Ready-to-Eat Meat and Poultry Products
125.146	Consumer Protection Standards: Raw Products
125.147	Rules of Practice
125.148	Quantity of Contents Labeling and Procedures and Requirements for Accurate Weights

SUBPART B: MEAT INSPECTION

Section	
125.150	Livestock and Meat Products Entering Official Establishments

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

125.160	Equine and Equine Products
125.170	Facilities for Inspection
125.180	Sanitation (Repealed)
125.190	Ante-Mortem Inspection
125.200	Post-Mortem Inspection
125.210	Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220	Humane Slaughter of Animals
125.230	Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240	Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
125.250	Marking Products and Their Containers
125.260	Labeling, Marking and Containers
125.270	Entry into Official Establishment; Reinspection and Preparation of Product
125.280	Meat Definitions and Standards of Identity or Composition
125.290	Transportation
125.295	Imported Products (Repealed)
125.300	Special Services Relating to Meat and Other Products
125.305	Exotic Animal Inspection

SUBPART C: POULTRY INSPECTION

Section	
125.310	Application of Inspection
125.320	Facilities for Inspection
125.330	Sanitation
125.340	Operating Procedures
125.350	Ante-Mortem Inspection
125.360	Post-Mortem Inspection; Disposition of Carcasses and Parts
125.370	Handling and Disposal of Condemned or Inedible Products at Official Establishments
125.380	Labeling and Containers
125.390	Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
125.400	Definitions and Standards of Identity or Composition
125.410	Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; preemptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; preemptory amendment at 9 Ill. Reg. 2980, effective February 20, 1985; preemptory amendment at 9 Ill. Reg. 4856, effective April 1, 1985; preemptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; preemptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; preemptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; preemptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; preemptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; preemptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; preemptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; preemptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; preemptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; preemptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; preemptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; preemptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; preemptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; preemptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; preemptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; preemptory amendment at 10 Ill. Reg. 19818, effective November 12, 1986; preemptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; preemptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; preemptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; preemptory amendment at 11 Ill. Reg. 10321, effective May 15, 1987; preemptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; preemptory amendment at 11 Ill. Reg. 14830, effective August 25, 1987; preemptory amendment at 11 Ill. Reg. 18799, effective November 3, 1987; preemptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; preemptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; preemptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; preemptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; preemptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; preemptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; preemptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; preemptory amendment at 13 Ill. Reg. 228, effective January 11, 1989; preemptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; preemptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; preemptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; preemptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; preemptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; preemptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; preemptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; preemptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; preemptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; preemptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; preemptory amendment withdrawn at 15 Ill. Reg. 1574, effective January 2, 1991; preemptory amendment at 15 Ill. Reg. 3117,

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

effective September 3, 1991; preemptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; preemptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; preemptory amendment at 16 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; preemptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; preemptory amendment at 16 Ill. Reg. 11963, effective July 22, 1992; preemptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; preemptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; preemptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; preemptory amendment at 17 Ill. Reg. 2063, effective February 12, 1993; preemptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; preemptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993; preemptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; preemptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; preemptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; preemptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; preemptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; preemptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; preemptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; preemptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; preemptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; preemptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; preemptory amendment at 19 Ill. Reg. 7067, effective May 8, 1995; preemptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; preemptory amendment at 19 Ill. Reg. 15766, effective November 10, 1995; preemptory amendment at 19 Ill. Reg. 16866, effective December 22, 1995; preemptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; preemptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; preemptory amendment at 20 Ill. Reg. 12634, effective September 5, 1996; preemptory amendment at 20 Ill. Reg. 15371, effective November 13, 1996; preemptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997; preemptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; preemptory amendment at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1, 1997; preemptory amendment at 21 Ill. Reg. 11788, effective August 8, 1997; preemptory amendment at 21 Ill. Reg. 12686, effective August 28, 1997; preemptory amendment at 21 Ill. Reg. 14575, effective October 22, 1997; preemptory amendment at 22 Ill. Reg. 3602, effective February 2, 1998; preemptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998; preemptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; preemptory amendment at 22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 450, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 3851, effective March 11, 1999; preemptory amendment at 23 Ill. Reg. 10880, effective August 19, 1999; preemptory amendment at 24 Ill. Reg. 3933, effective February 22, 2000; preemptory amendment at 24 Ill. Reg. 5699, effective March 14, 2000; preemptory amendment at 24 Ill. Reg. 6734, effective April 14, 2000; amended

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

at 24 Ill. Reg. 7197, effective April 27, 2000; preemptory amendment at 24 Ill. Reg. 14074, effective August 30, 2000; preemptory amendment at 24 Ill. Reg. 14451, effective September 15, 2000; preemptory amendment at 25 Ill. Reg. 7341, effective April 26, 2001; preemptory amendment at 25 Ill. Reg. 12434, effective September 13, 2001; preemptory amendment at 25 Ill. Reg. 15444, effective November 19, 2001; preemptory amendment at 26 Ill. Reg. 980, effective January 11, 2002; preemptory amendment at 26 Ill. Reg. 7750, effective May 10, 2002; amended at 27 Ill. Reg. 10205, effective July 1, 2003; preemptory amendment at 27 Ill. Reg. 13634, effective July 28, 2003; emergency amendment at 27 Ill. Reg. 14197, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; preemptory amendment at 27 Ill. Reg. 15172, effective September 15, 2003; preemptory amendment at 27 Ill. Reg. 17281, effective November 1, 2003; preemptory amendment at 27 Ill. Reg. 18270, effective November 14, 2003; amended at 28 Ill. Reg. 2131, effective February 1, 2004; preemptory amendment at 28 Ill. Reg. 3513, effective February 6, 2004; preemptory amendment at 28 Ill. Reg. 11934, effective August 5, 2004; preemptory amendment at 28 Ill. Reg. 15694, effective November 30, 2004; preemptory amendment at 28 Ill. Reg. 16368, effective December 6, 2004; preemptory amendment at 29 Ill. Reg. 2479, effective February 1, 2005; amended at 29 Ill. Reg. 5661, effective April 13, 2005; preemptory amendment at 29 Ill. Reg. 15645, effective October 7, 2005; amended at 29 Ill. Reg. 18432, effective October 28, 2005; preemptory amendment at 29 Ill. Reg. 20580, effective November 29, 2005; preemptory amendment at 29 Ill. Reg. 21058, effective December 21, 2005; preemptory amendment at 30 Ill. Reg. 2400, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 16081, effective September 25, 2006; preemptory amendment at 31 Ill. Reg. 5149, effective March 16, 2007; preemptory amendment at 31 Ill. Reg. 12624, effective August 20, 2007; preemptory amendment at 31 Ill. Reg. 16763, effective December 10, 2007; preemptory amendment at 32 Ill. Reg. 590, effective January 1, 2008; preemptory amendment at 32 Ill. Reg. 17831, effective October 30, 2008; preemptory amendment at 33 Ill. Reg. 1230, effective January 5, 2009; preemptory amendment at 33 Ill. Reg. 6338, effective April 17, 2009; preemptory amendment at 33 Ill. Reg. 12040, effective August 5, 2009; preemptory amendment at 35 Ill. Reg. 571, effective December 22, 2010; preemptory amendment at 35 Ill. Reg. 1802, effective January 14, 2011; preemptory amendment at 35 Ill. Reg. 19553, effective January 1, 2012.

SUBPART B: MEAT INSPECTION

Section 125.260 Labeling, Marking and Containers

- a) The Department incorporates by reference 9 CFR 317.1 through 317.2(j)(10), 317.2(j)(12) through 317.4(f)(2), 317.6, 317.8, 317.10 through 317.13, 317.17 through 317.24, 317.300, 317.302, 317.308, 317.309, 317.312, 317.313, 317.343, 317.344, 317.345, 317.354, 317.356, 317.360, 317.361, 317.362, 317.363,

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

317.369, 317.380, 317.400 (2004; 69 FR 34913, effective July 31, 2004; 69 FR 48799, effective November 30, 2004; 69 FR 74405, effective January 13, 2005; 71 FR 1683, effective January 11, 2006; 72 FR 9651, effective March 5, 2007; 73 FR 50701, effective September 30, 2008; 73 FR 52189, effective October 9, 2008; 73 FR 75564, effective December 12, 2008; 74 FR 11837, effective March 20, 2009; 75 FR 71344, effective November 23, 2010; [75 FR 82148, effective January 1, 2012](#)).

- b) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3) and (k)(3), (4), (5) and (9) of the Act.
- c) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
- d) The Department shall approve temporary labeling as stated in 9 CFR 317.4(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the labels before the expiration of the temporary approval.
- e) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act [225 ILCS 470] and the rules adopted thereto (8 Ill. Adm. Code 600).
- f) Any Type I establishment is authorized to use generically approved labeling for meat and poultry products as defined in subsection (h) of this Section without the labeling being submitted for approval to the Department, provided the labeling is in accordance with this Section and shows all mandatory features in a prominent manner as required in 9 CFR 317.2 and 381 and is not otherwise false or misleading.
- g) The Department shall select samples of generically approved labeling from the records maintained by official establishments to determine compliance with labeling requirements. Any finding of false or misleading labeling shall institute the proceedings prescribed in 225 ILCS 650/13.
- h) Generically approved labeling is labeling that complies with the following:

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- 1) Labeling for a product that has a product standard as specified in 9 CFR 319 and 381 or the Standards and Labeling Policy Book and does not contain any special claims such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims or guarantees, or is not a domestic product labeled in a foreign language;
- 2) Labeling for single-ingredient products, such as beef steak or lamb chops, that does not contain any special claims such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims or guarantees or is not a domestic product labeled with a foreign language;
- 3) Labeling for containers of products sold under contract specifications to federal government agencies that the product is not offered for sale to the general public, provided that the contract specifications include specific requirements with respect to labeling and are made available to the inspector-in-charge;
- 4) Labeling for shipping containers that contain fully labeled immediate containers, provided that the labeling complies with 9 CFR 316.13 and 381.127;
- 5) Labeling for products not intended for human food, provided it complies with 9 CFR 325, 381.152(c) and 381.193;
- 6) Meat inspection legends;
- 7) Inserts, tags, liners, pasters and similar devices containing printed or graphic matter and for use or to be placed within containers and coverings of products, provided the devices contain no reference to product and bear no misleading feature;
- 8) Labeling for consumer test products not intended for sale;
- 9) Labeling that was previously approved by the Department as sketch labeling, and the final labeling was prepared without modification or with the following modifications:

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- A) All features of the labeling are proportionately enlarged or reduced provided that all minimum size requirements specified in applicable regulations are met and the labeling is legible;
- B) The substitution of any unit of measurement with its abbreviation or the substitution of any abbreviation with its unit of measurement, e.g., "lb." for "pound" or "oz." for "ounce" or of the word "pound" for "lb." or "ounce" for "oz.";
- C) A master or stock label has been approved where the name and address of the distributor are omitted and the name and address are applied before being used (in that case, the words "prepared for" or similar statement must be shown together with the blank space reserved for the insertion of the name and address when the labels are offered for approval);
- D) Wrappers or other covers bearing pictorial designs, emblematic designs or illustrations, e.g., floral arrangements, illustrations of animals, fireworks, etc., are used with approved labeling (The use of the designs will not make necessary the application of labeling not otherwise required.);
- E) A change in the language or the arrangement of directions pertaining to the opening of containers or the serving of the product;
- F) The addition, deletion or amendment of a dated or undated coupon, a cents-off statement, cooking instructions, packer product code information or the UPC product code information;
- G) Any change in the name or address of the packer, manufacturer or distributor that appears in the signature line;
- H) Any change in the net weight, provided the size of the net weight statement complies with CFR 317.2 and 318.121;
- I) The addition, deletion or amendment of recipe suggestions for the product;

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- J) Any change in punctuation;
- K) Newly assigned or revised establishment numbers for a particular establishment that has been approved by the Department;
- L) The addition or deletion of open dating information;
- M) A change in the type of packaging material on which label is printed;
- N) Brand name changes, provided that there are no design changes, the brand name does not use a term that connotes quality or other product characteristics, the brand name has no geographic significance, and the brand name does not affect the name of the product;
- O) The deletion of the word "new" on new product labeling;
- P) The addition, deletion or amendment of special handling statements, provided that the change is consistent with CFR 317.2(k) and 318.125(a);
- Q) The addition of safe handling instructions as required by CFR 317.2(1) and 381.125(b);
- R) Changes reflecting a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label, provided that the change in quantity of ingredients complies with any minimum or maximum limits for the use of the ingredients prescribed in CFR 318, 319 and 381.147;
- S) Changes in the color of the labeling, provided that sufficient contrast and legibility remain;
- T) A change in the product vignette, provided that the change does not affect mandatory labeling information or misrepresent the content of the package;

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- U) A change in the establishment number by a corporation or parent company for an establishment under its ownership;
 - V) Changes in nutrition labeling that only involve quantitative adjustments to the nutrition labeling information, except for serving sizes, provided the nutrition labeling information maintains its accuracy and consistency;
 - W) Deletion of any claim, and the deletion of non-mandatory features or non-mandatory information; and
 - X) The addition or deletion of a direct translation of the English language into a foreign language for products marked "for export only".
- i) With regard to the incorporated language in 9 CFR 317.6, the extension of time for exhausting existing stocks of labels is not applicable since all labels presently in use are in compliance with the rules of this Part.
 - j) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (2004)).
 - k) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.
 - l) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 317.13 so that the inspector can notify the inspector at the destination point.
 - m) Labeling of custom slaughter and/or custom processed meat and/or meat products and the containers containing custom slaughtered and/or custom processed meat and/or meat products shall be as set forth in Section 5 of the Act.

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- n) References in the incorporated language to 9 CFR 312 shall be interpreted to mean in accordance with Section 125.90.

(Source: Amended by peremptory rulemaking at 35 Ill. Reg. 19553, effective January 1, 2012)

SUBPART C: POULTRY INSPECTION

Section 125.380 Labeling and Containers

- a) The Department incorporates by reference 381.115 through 381.127, 381.129 through 381.132(f), 381.134, 381.136 through 381.140, 381.144(a) through 381.144(d), 381.400, 381.402, 381.408, 381.409, 381.412, 381.413, 381.443; 381.444; 381.445; 381.454; 381.456, 381.460, 381.461, 381.462, 381.463, 381.469, 381.480, 381.500 (2004; 69 FR 28042, effective July 31, 2004; 69 FR 57899, effective November 30, 2004; 69 FR 4405, effective January 13, 2005; 71 FR 1683, effective January 11, 2006; 72 FR 9651, effective March 5, 2007; 73 FR 50701, effective September 30, 2008; 73 FR 52189, effective October 9, 2008; 73 FR 75564, effective December 12, 2008; 74 FR 11837, effective March 20, 2009; 75 FR 71344, effective November 23, 2010; [75 FR 82148, effective January 1, 2012](#)).
- b) Each shipping container and each immediate container containing inspected and passed poultry and/or poultry products shall be identified in accordance with the labeling provisions of this Section.
- c) Immediate containers of poultry products packed in, bearing or containing any chemical additive shall bear a label naming the additive and the purpose of its use.
- d) Labels for consumer packages shall be approved if the label is not misbranded in accordance with Section 2.20 of the Act and is in compliance with this Section.
- e) The specific statements listed in 9 CFR 381.121 may be added to the label for the shipping container at the option of the licensee.
- f) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act and the rules adopted thereto (8 Ill. Adm. Code 600).

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- g) No labeling or containers that have not been approved shall be used until a final decision is rendered at an administrative hearing in accordance with Section 19 of the Act.
- h) The Department shall approve the manufacture of a device or label containing an official mark of inspection provided the device or label is in compliance with Section 125.90.
- i) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
- j) The Department shall approve temporary labeling as stated in 9 CFR 381.132(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the permanent labels before the expiration of the temporary approval.
- k) A copy of each label submitted for approval shall be accompanied by a statement showing the common or usual names, the kinds and percentages of the ingredients comprising the poultry product and a statement indicating the method or preparation of the product with respect to which the label is to be used. Laboratories used for chemical analysis shall be any approved laboratory as defined in 8 Ill. Adm. Code 20.1.
- l) The Department does not approve terms for generic labeling and considers the approval of terms as generic to be the responsibility of the federal government.
- m) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (1997)).
- n) Labels and devices approved for use pursuant to Section 125.90 and this Section shall be disposed of only when such labels or devices have been mutilated or damaged or when the establishment ceases to do business. Such labels and devices shall be given to the inspector for disposition.
- o) The inspector shall grant authorization to transport labels, wrappers and

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 381.138 so that the inspector can notify the inspector at the destination point.

- p) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.
- q) Labeling of custom slaughtered and/or custom processed poultry and/or poultry products and the containers containing custom slaughtered and/or custom processed poultry products shall be as set forth in Section 5 of the Act.
- r) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3), (4), (5) and (9) of the Act.

(Source: Amended by peremptory rulemaking at 35 Ill. Reg. 19553, effective January 1, 2012)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 15, 2011 through November 21, 2011 and have been scheduled for review by the Committee at its December 13, 2011 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>
12/28/11	<u>Department of Healthcare and Family Services</u> , Covering All Kids Health Insurance Program (89 Ill. Adm. Code 123)	1/14/11 35 Ill. Reg. 683	12/13/11
12/29/11	<u>Office of the Lieutenant Governor</u> , Illinois Americorps Program (Repealer) (47 Ill. Adm. Code 610)	9/30/11 35 Ill. Reg. 15553	12/13/11
12/30/11	<u>Illinois Racing Board</u> , Medication (11 Ill. Adm. Code 603)	9/16/11 35 Ill. Reg. 15210	12/13/11
12/30/11	<u>Illinois Racing Board</u> , Charitable Funds (11 Ill. Adm. Code 208)	9/30/11 35 Ill. Reg. 15575	12/13/11
12/30/11	<u>Illinois Racing Board</u> , Inter-Track Wagering Facilities (11 Ill. Adm. Code 435)	9/30/11 35 Ill. Reg. 15580	12/13/11
12/30/11	<u>Department of Public Health</u> , Newborn Metabolic Screening and Treatment Code (77 Ill. Adm. Code 661)	7/29/11 35 Ill. Reg. 12668	12/13/11
12/31/11	<u>Department of Financial and Professional Regulation</u> , The Professional Engineering Practice Act of 1989 (68 Ill. Adm. Code 1380)	9/30/11 35 Ill. Reg. 15512	12/13/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

12/31/11	<u>Department of Insurance</u> , Corrective Orders (50 Ill. Adm. Code 1250)	7/8/11 35 Ill. Reg. 10466	12/13/11
12/31/11	<u>Department of Financial and Professional Regulation</u> , Residential Mortgage License Act of 1987 (38 Ill. Adm. Code 1050)	9/2/11 35 Ill. Reg. 14574	12/13/11

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 35, Issue 49 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

89 - 104	.....	19322
89 - 120	.....	19337
89 - 128	.....	19352
89 - 140	.....	19368
89 - 150	.....	19392
89 - 160	.....	19403
86 - 760	.....	19452
86 - 770	.....	19459
23 - 50	.....	19467

ADOPTED RULES

68 - 1285	11/17/2011	.....	19500
68 - 1455	11/17/2011	.....	19505
89 - 147	12/1/2011	.....	19514
89 - 153	12/1/2011	.....	19524
89 - 572	11/18/2011	19533
80 - 1650	11/18/2011	19541

PEREMPTORY RULES

8 - 125	1/1/2012	19553
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