

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.

New Regulations

Proposed Regulations

HEALTH CARE DATA

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Health Care Data Collection and Submission Code" (77 Ill Adm Code 1010; 36 Ill Reg 1009), effective 5/8/12, implementing Public Act 97-180. The rulemaking concerns DPH procedures for collecting information from hospitals and ambulatory surgical treatment centers in order to compile state-wide data for use in the Department's public reports (e.g., the Consumer Guide to Health Care component of DPH's Hospital Report Card website). Patient names, addresses, and any part of their Social Security numbers must not be released publicly, and only authorized DPH staff working on secure computers and databases will be permitted access to this information. However, DPH may use a unique

patient identifier based on the last four digits of a patient's Social Security number to link patient discharge data with other internal or external data sets. The patient identifier may be released to State agencies, local health departments, and approved data requesters using appropriate guidelines. A fee schedule for supplying data to non-government entities is added, and an appendix listing various data elements to be submitted to DPH is updated. Since 1st Notice the start date for submission of data on discharged patients has been changed from 7/1/12 to 10/1/12. Those affected by this rulemaking include hospitals and outpatient surgery clinics.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to "Medical Payment" (89 Ill Adm Code 140; 36 Ill Reg 7757) concerning payments to pharmacies and long term care providers. The rulemaking changes the benchmark price that DHFS pays pharmacies for generic drugs prescribed to medical assistance recipients from suggested wholesale price (SWP) minus 25% to wholesale acquisition cost (WAC) plus 1%. Another amendment eliminates "bed hold" payments to nursing homes, intermediate care facilities for the developmentally disabled (ICF/DD) and pediatric skilled nursing facilities (SNF/Ped) when residents leave a facility temporarily. All bed hold payments to nursing homes will be terminated as of 7/1/12, while bed

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NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

Proposed Regulations

hold payments to ICF/DDs and SNF/Peds as of that date will be allowed only for residents under age 21. DHFS also is lowering the rate of return on capital investments for nursing facilities from 11% to 4% and removing the nurses aide training component from payments to ICF/DDs. This rulemaking will affect pharmacies, nursing homes, and institutions for disabled children and adults.

DHFS proposed amendments to "Reimbursement for Nursing Costs for Geriatric Facilities" (89 Ill Adm Code 147; 36 Ill Reg 7789) that implement, in accordance with Public Act 95-1530, an updated Minimum Data Set (MDS) methodology for determining payment for nursing services. (MDS bases payments to Medicare and Medicaid certified nursing facilities on a list of factors that assess each resident's medical condition, functioning, and level of care.) The amendments also establish updated Resource Utilization Group (RUG) classifications for grouping residents by clinical and functional status. Nursing homes are affected by this rulemaking.

DHFS also proposed amendments to "Hospital Reimbursement Changes" (89 Ill Adm Code 152; 36 Ill Reg 7959) and "Long Term Care Reimbursement Changes" (89 Ill Adm Code 153; 36 Ill Reg 7966) altering payment rates to providers. The Part 152 amendments eliminate additional reimbursement provided to long-term acute care hospitals and also grant DHFS authority to reduce hospital inpatient or outpatient rates if necessary to meet federal upper payment limitations. Amendments to Part 153, all effective 7/1/12, increase payments for staff training at ICF/DD and SNF/Ped facilities by \$1.00 per billable day per resident or \$3.81 per month per resident, and eliminate a \$10 per day, per individual payment for persons with developmental disabilities in nursing homes. The nursing component of ICF/DD and SNF/Ped rates must be calculated via the RUG methodology. Finally, the return on capital investment for nursing facilities is reduced from 11% to 4%. Enti-

ties affected by these rulemakings include long-term acute care hospitals and facilities for the developmentally disabled.

Questions/requests for copies/comments concerning the 4 DHFS rulemakings above through 7/9/12: Jeanette Badrov, DHFS, 201 S. Grand Avenue East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233.

SALES TAXES

The DEPARTMENT OF REVENUE (DOR) proposed amendments to "Retailer's Occupation Tax" (86 Ill. Adm. Code 130; 36 Ill. Reg. 7971) that, effective 10/1/12, retailers must count shipping and handling costs as part of costs of doing business. The rulemaking prohibits deduction of shipping and handling costs from a retailer's taxable gross receipts. Further, the rulemaking also differentiates which transportation and delivery charges are applicable. Current provisions found in 86 Ill. Adm. Code 130.415 will be in effect until 9/30/12. After and including 10/1/12, newly proposed provisions in 86 Ill. Adm. Code 130.410 will govern transportation and delivery charges.

Also, DOR proposed amendments to "Service Occupation Tax" (86 Ill. Adm. Code 140; 36 Ill. Reg. 7990) that, effective 10/1/12, will apply new shipping and handling provisions being proposed in 86 Ill. Adm. Code 130.410 to individuals subject to the provisions of this Part. Small retail businesses may be affected by these 2 rulemakings.

Questions/requests for copies/comments concerning the 2 DOR rulemakings above through 7/9/12: Debra Boggess, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

SCHOOL BUS INSPECTIONS

The DEPARTMENT OF TRANSPORTATION proposed amendments to "School Bus Driver's Pretrip Inspection Requirements" (92 Ill Adm Code

458; 36 Ill Reg 8000) that clarify timeframes and procedures for school bus pretrip inspections, including recordkeeping of pretrip inspection forms and differentiation between items that must be inspected by the driver pretrip or another person, such as a mechanic. The rulemaking also allows under-the-hood equipment to be inspected once every 24 hours (currently required both pretrip and post trip) and fluid/wiring checks may be done at anytime at least once every 24 hours when the bus is being used to transport students. DOT clarifies that these rule provisions are minimum requirements, allowing school bus owners/operators to adopt more stringent requirements for pretrip inspections. DOT also clarified its variance procedure that allows owners or operators to request, in writing, a procedural variance from pretrip inspection requirements. The rulemaking also revises the school bus driver pretrip inspection form. School bus companies will be affected by this rulemaking.

Questions/requests for copies/comments through 7/9/12: Catherine Allen, DOT, P.O. Box 19212, Springfield IL 62794, 217/785-3031.

DOMESTIC VIOLENCE GRANTS

The ATTORNEY GENERAL proposed amendments to the Part titled "Married Families Domestic Violence Grants" (89 Ill Adm Code 1110; 36 Ill Reg 7745) implementing provisions of Public Act 97-4. The rulemaking changes the title of the Part to "Domestic Violence Grants" and shortens the name of the grant fund to the Domestic Violence Fund. New definitions of "domestic violence", "domestic violence program", and "spouse" (person who is married or a party to a civil union) are also added.

Questions/requests for copies/comments through 7/9/12: Lynn Patton, Office of the Attorney General, 500 S. 2nd St., Springfield IL 62706, 217/524-1504, fax 217/782-1396.

Second Notice

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's June 12, 2012 meeting.

SECRETARY OF STATE

"Cancellation, Revocation or Suspension of Licenses or Permits" (92 Ill Adm Code 1040) proposed 3/30/12 (36 Ill Reg 4696)

DEPARTMENT OF NATURAL RESOURCES

"Commercial Fishing and Musseling in Certain Waters of the State" (17 Ill Adm Code 830) proposed 1/20/12 (36 Ill Reg 722)

"Commercial Fishing and Musseling in Certain Waters of the State" (17 Ill Adm Code 830) proposed 11/18/11 (35 Ill Reg 19033)

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION

"Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement" (44 Ill Adm Code 4) proposed 3/9/12 (36 Ill Reg 3373)

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

"Chief Procurement Officer for General Services Standard Procurement" (44 Ill Adm Code 1) proposed 2/10/12 (36 Ill Reg 1820)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Maggie Crotty

Representative Lou Lang

Senator Don Harmon

Representative Don Moffitt

Senator John O. Jones

Representative Rosemary Mulligan

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Representative Angelo "Skip" Saviano

Senator Ira Silverstein

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**Vicki Thomas
Executive Director**