

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

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to "Conditions of Employment" (80 Ill Adm Code 303; 36 Ill. Reg. 10539), effective 11/1/12, to bring Department personnel rules for leave in the case of a stillborn child and family responsibility leave in conformity with the Illinois Religious Freedom Protection and Civil Union Act, which grants spousal rights to partners of a civil union.

Questions/requests for copies: Mary Matheny, DCMS, 720 Stratton Bldg., Springfield IL 62706, 217/557-5404.

DCMS also adopted amendments to "Pay Plan" (80 Ill Adm Code 310; 36 Ill Reg 10552), effective 11/1/12. Companion emergency amendments, effective 7/1/12, appeared in the Illinois Register at 36 Ill Reg 11222. The amendments keep salary schedules affected by a fiscal year 2012 pay freeze (with exceptions for agencies that have lifted the freeze retroactively) in effect past the scheduled 6/30/12 expiration date of collective bargaining agreements with several State employee unions, since the current contract has been extended while

negotiations toward a new contract continue. Also, the rulemaking suspends certain types of pay increases that would normally have taken effect in the absence of a collective bargaining agreement. The rulemaking also updates new hire rates for highway maintainers and updates references to several positions that were moved to bargaining units or had titles changed by previous rulemakings.

Questions/requests for copies: Jason Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, fax 217/524-4570, e-mail: CMS.PayPlan@illinois.gov.

LOTTERY MANAGEMENT

The CHIEF PROCUREMENT OFFICER (CPO) FOR GENERAL SERVICES adopted a new subpart for rules titled "Chief Procurement Officer for General Services Standard Procurement" (44 Ill Adm Code 1; 36 Ill. Reg. 9025), effective 11/1/12, concerning procurement protocols for selection of a successor private manager for the Illinois State Lottery. In 2009, Public Act 96-34 directed the Department of Revenue (and then Lottery) to contract with a private manager for lottery op-

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WORKERS' COMPENSATION

The DEPARTMENT OF INSURANCE proposed a new Part titled "Workers' Compensation Electronic Claims" (50 Ill Adm Code 2908; 36 Ill. Reg. 16137) to implement electronic claims reporting now required by the Workers' Compensation Act. The new Part defines key terms such as "clearinghouse" (a public or private entity, including a billing service, pricing company, etc., that processes medical billing information, or receives a transaction from another entity and processes medical billing information for a client entity) and "health care provider" and "payer" agent (a person or entity that contracts with a health care provider or payer to process a medical bill). Electronic medical bill processing standards are prescribed for professional, institutional/hospital, dental, and retail pharmacy billing, as well electronic response protocols and remittance standards. All billing codes must conform to the Workers' Compensation Commission Medical Fee Schedule found at 50 Ill Adm Code 7110.90. Payers of workers' compensation medical bills must accept electronic medical bills submitted in accordance with this rule, as well as

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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.

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erations. In 2011, Public Act 97-464 directed the Chief Procurement Officer to adopt administrative rules establishing a procurement selection process for any successor private manager. Selection of a subsequent private manager for the Lottery shall be based on the competitive selection provisions of the Illinois Procurement Code and call for a Request for Qualifications (RFQ) requesting or stating the following information: the type of services required; an estimate of when and for how long the work will be required; the type of contract to be used; a date by which proposals shall be submitted; minimum information the proposal shall contain (such as the name of the offeror and associated business information, the abilities, qualifications and experience of persons who would be assigned to provide services, a list of similar contracts performed by the offeror, a plan describing how the services will be performed, etc.); the price or other proposed form of compensation for the offeror; the factors to be used in the evaluation and selection process and their relative importance; and a plan for post-performance review to be conducted by the Lottery. Proposal submission, discussion, selection of best qualified offeror and subsequent evaluation of pricing data or other proposed compensation elements are stated. Negotiation with the best qualified vendor and the next highest ranked vendor is permitted. Elements of this negotiation process include: making certain the offeror understands the scope of the proposed work and that delivery of services is feasible, determining the offeror will make available necessary personnel and facilities within a required time, and agreeing upon compensation. The Lottery shall publish the names of its decision makers that awarded the contract and the name of the successful vendor and the value of the contract in the Illinois Procurement Bulletin. The Lottery is permitted to select advisors to assist in the preparation of the request for qualifi-

cations and the selection of a private manager (financial disclosure requirements for potential advisors are included in the rulemaking). After receipt of offerors' proposals, the Lottery will select offerors' finalists and hold a public hearing on the finalists' proposals. A Protest Review process, for contesting the private manager selection by the Lottery, states the CPO may appoint one or more Protest Review Officers, prescribes submission of protest requirements, and lists elements of a protest (name and address of the protesting party; identification of the procurement; a statement of reasons for the protest; supporting exhibits, evidence or documents; and specific relief sought).

Questions/requests for copies: Margaret van Dijk, Chief Procurement Office for General Services, 712 Stratton Building, Springfield IL 62706 217/558-2228, Margaret.vanDijk@illinois.gov.

RACING PURSES

The ILLINOIS RACING BOARD adopted amendments to "Entries and Declarations" (11 Ill Adm Code 1312; 36 Ill Reg 11965) and "Entries, Subscriptions and Declarations" (11 Ill Adm Code 1413; 36 Ill Reg 11969), both effective 11/1/12, placing restrictions on when a purse may be changed. The Part 1312 amendments apply to harness races and the Part 1413 amendments apply to thoroughbred races. In both cases, a purse cannot be changed after it has been publicized and before any entries unless approved by the Executive Director of the Board. Once approved, the Racing Secretary must post the change in his or her office and in the overnight sheets (lists of entries for upcoming races). Any changes to a purse made after an entry must be approved by the Board.

Questions/requests for copies of the 2 IRB rulemakings above: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

WORKERS' COMPENSATION

The ILLINOIS WORKERS' COMPENSATION COMMISSION adopted amendments to "Miscellaneous" (50 Ill Adm Code 7110; 36 Ill. Reg. 3164), effective 11/5/12, implementing Public Act 97-18, a significant revision of the Workers' Compensation Act, with regard to medical fee schedules in Section 8.2 of the Act. Effective 9/1/11, payment rates for procedures, services, and treatments in the IWCC's Medical Fee Schedule are reduced 30% (to 70% of the fee then listed), and the fee amounts will be adjusted annually based upon the Consumer Price Index. Beginning 1/1/12, payment rates for non-hospital fees will be determined by 4 geographic regions: Cook County; DuPage, Kane, Lake, and Will counties; 11 counties in or near the St. Louis Metro East area; and all other counties. For hospital fees, 14 regions will be used. Effective 6/28/11, out-of-State medical providers shall be paid either the amount listed in their state's fee schedule or the amount specified for the region where the employee resides, whichever is less. For procedures, treatments and services rendered on or after 9/1/11 that are not listed in the fee schedule, the reimbursement rate shall be 53.2% of actual charge (formerly, 76% of actual charge), with exceptions specified elsewhere in rule for specific charges that are reimbursed at 65% of the provider's normal rates. Other procedures, treatments and services formerly reimbursed at 76% of actual charge (e.g., dental services, emergency room, professional services performed in conjunction with hospital services, hospital outpatient radiology, hospital pathology and laboratory services) shall be reimbursed at 53.2%. For cost outliers (unusually costly procedures) the maximum reimbursement will be the fee schedule amount plus 53.2%. Implants will be reimbursed at 25% above the net manufacturer's invoice price, less rebates, plus shipping charges. Charges for outpatient surgery may be accepted from any ac-

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credited outpatient surgery facility (instead of only from ambulatory surgical treatment centers licensed by the Department of Public Health). Since 1st Notice a definition of "hearing site" has been added, along with links to the Commission's website location for its instructions and guidelines. Those affected by this rulemaking include physicians, clinics, and hospitals that treat work-related injuries and conditions.

IWCC also adopted a new Part titled "Alcohol and Drug Sample Collection and Testing" (50 Ill. Adm Code 9140; 36 Ill. Reg. 8626), effective 11/5/12, concerning alcohol and drug testing procedures in workers' compensation cases. The rules implement Public Act 97-18, which bars payment of workers' compensation when an employee's intoxication was the proximate cause of an accident, or if the employee was so intoxicated at the

time of an accident that his or her condition constituted a "departure from employment". The PA also requires the Commission to adopt rules governing alcohol and drug testing procedures. The proposed rule outlines procedures to be followed for collecting and testing breath, blood, saliva or urine samples and maintaining a documented chain of custody for blood and urine samples. For each type of test the rule specifies which trained or licensed personnel may collect a sample, how a chain of custody form (documenting who has handled a sample) will be completed and to whom copies will be provided, steps to be taken to avoid contamination of a sample, and what equipment or supplies may be used (e.g., specimen bottles). The rule specifies how to conduct direct observation of urine collection and preparation when there is evidence of possible tampering. The rule also provides for a medical

review officer (MRO) to review blood and urine test results and provides for split testing of urine and blood specimens by more than one laboratory when there is a positive, substituted, or adulterated test result. Changes since 1st Notice clarify the manner in which chain of custody forms may be transmitted (fax, courier mail or electronically), clarify when an employer can have a split specimen retested, and update references to federal regulations. Small businesses that conduct drug testing and screening, police departments that conduct alcohol/sobriety tests, hospitals, and medical practitioners are affected by this rulemaking.

Questions/requests for copies of the 2 IWCC rulemakings above: Kimberly Janas, IWCC, 100 W. Randolph St., Ste. 8-200, Chicago IL 60601, 312/814-6559, Fax: 312/814-3520, kimberly.janas@illinois.gov.

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transmit acknowledgements and remittance advice. Health care providers and payers must be able to exchange electronic data by 6/30/13. Minimum elements of a complete electronic medical bill, besides the format requirements set out in the rule, include: all medical reports and records in legible text; identification of the injured employee, employer, applicable insurance carrier, third party administrator, managed care organization or its agent, health care provider, and medical services provided; and applicable medical codes found in the Workers' Compensation Commission Medical Fee Schedule. Electronic notice provisions and time limitations for acknowledgement of records, bills and payment are prescribed, as well as time limits and documentation of medical reports and electronic remittance notifications. Time periods for review and various actions by employers, insurers, HMOs or agents of medical bills upon submission of electronic bills by health

care providers are stated (e.g., a payer or its agent must complete or return an incomplete bill within 21 days after receipt). Any communication between a payer and health care provider must be sufficiently detailed to permit a person to respond to the communication and must normally be by electronic or telephone transmission. Businesses that submit or process workers' compensation claims will be affected.

Questions/requests for copies/comments through 12/31/12: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

TEACHERS' RETIREMENT

The TEACHERS' RETIREMENT SYSTEM (TRS) proposed amendments to "The Administration and Operation of the Teachers' Retirement System" (80 Ill Adm Code 1650; 35 Ill. Reg. 16180). The amendments permit electronic

voting by TRS members and annuitants for elections of members of the TRS Board of Trustees. Nominating petitions may be found on the TRS website. Election tasks formerly assigned to the Board's secretary shall now be performed by the System (e.g., receipt of petitions; announcement of a special election; examination and determination of the validity of petitions). Various tasks normally related to or commonly required regarding manual voting are being eliminated, including instructions for preparing and submitting a ballot, provisions for poll watchers, and public observation of voting. The rule expressly provides that manual voting shall be permitted and that an eligible voter may request that manual voting materials be provided. Any eligible voter who has not provided TRS with a valid electronic mail address will receive manual election materials via the US mail.

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Questions/requests for copies/comments through 12/31/12: Cynthia Fain, TRS, 2815 W. Washington, PO Box 19253, Springfield IL 62794-9253, 217/753-0375.

censure in PA 97-607 and updating incorporations by reference), with three exceptions: (1) the rulemaking clarifies that candidates for licensure as principals or administrators (and their faculty supervisors at institutions of higher education) must pass a pre-qualification exam in evaluating teachers and staff (currently, must complete a training program on the subject); (2) it requires candidates to pass the applicable content-area exam prior to the start of the last semester of their internships (currently, before completing the internship); and (3) allows the SBE Superintendent to

appoint an alternate representative for the business community on the Principal Preparation Review Panel to attend panel meetings when the primary business representative cannot. Those affected by this rulemaking include non-profit organizations that offer principal/administrator preparation programs.

Questions/requests for copies/comments through 12/31/12: Shelley Helton, SBE, 100 North First Street, S-493, Springfield, Illinois 62777-0001, 217/782-5270. Comments may also be e-mailed to rules@isbe.net.

PRINCIPAL PREPARATION

The STATE BOARD OF EDUCATION proposed amendments to "Standards for All Illinois Teachers" (23 Ill. Adm. Code 30; 36 Ill. Reg. 16156). The changes are chiefly technical (e.g., changing statutory references and terminology to reflect the shift from teacher certification to educator li-

JCAR Meeting Action

At its 11/13/12 meeting, the Joint Committee on Administrative Rules voted to lift a Filing Prohibition on one proposed rule.

ILLINOIS COMMERCE COMMISSION

JCAR withdraws its prohibition against the filing of the ICC rulemaking titled "Obligations of Retail Electric Suppliers" (83 Ill Adm Code 412; 35 Ill Reg 12996), contingent upon and effective with ICC 's adoption of the rule with the agreed modifications. The Filing Prohibition was issued at the Committee's 6/12/12 meeting. The rulemaking is a new Part that addresses consumer protection and marketing practices of retail electric suppliers.

Second Notices

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 December 11, 2012 meeting.

DEPARTMENT OF AGRICULTURE

"General Operations of the State Fairs and Fairgrounds" (8 Ill Adm Code 270) proposed 8/17/12 (36 Ill Reg 12940)

ILLINOIS GAMING BOARD

"Video Gaming (General)" (11 Ill Adm Code 1800) proposed 9/14/12 (36 Ill Reg 14032)