

*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

### STATE RETIREE INSURANCE

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted emergency amendments titled "Financial Incentive for Non-Medicare Annuitants Who Opt Out of the State Employees Group Insurance Plan" (80 Ill Adm Code 2106; 37 Ill Reg 10715), effective 6/28/13, for a maximum of 150 days. This rule implements Public Act 98-19, which permitted annuitants not yet eligible for Medicare to opt out of the State health insurance plan administered by the Department. The rules permit State employee retirees to opt out, irrespective of the particular retirement system in which they are enrolled. An annuitant must furnish, upon application and annually thereafter, proof of major medical coverage from a source other than the health insurance program administered by the Department. Those opting out that have 20 or more years' service with the State of Illinois shall receive a financial incentive not to exceed \$500 per month. Other retirees shall receive an incentive not to exceed \$150 per month. Retirees must choose whether to participate not later than 90 days after 7/1/13.

DCMS also filed emergency amend-

ments titled "State Employees Group Insurance Program Retiree Premium Contributions" (80 Ill Adm Code 2200; 37 Ill Reg 10725), effective 6/28/13, for a maximum of 150 days. This new Part implements Public Act 97-695, which imposes charges on annuitants of the 5 major State retirement plans (State employees, teachers, judges, university employees, and members of the General Assembly) for health insurance in an amount determined by the Director of DCMS. The part defines key terms, such as annuitant (person retired from State employment and receiving a pension), retired employee, and survivor (spouse or dependent of a deceased State employee or annuitant). Agencies are required to provide records and certifications. DCMS shall establish premium contributions, consistent with the law and this Part (no premium calculation formula is included in the rule), calculate the premium contribution owed by each annuitant, retiree, or survivor and transmit that calculation to the appropriate retirement system on a monthly basis. DCMS will determine the benefits available to annuitants, retirees, survivors and dependents (again, no methodology for that process is set out in rule). DCMS

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## Proposed Regulations

### OFF-HIGHWAY VEHICLE STAMPS

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to the Part titled "Off-Highway Vehicle Usage Stamps" (17 Ill Adm Code 2525; 37 Ill Reg 9904) that implement a registration system and corresponding fee for ATV's, golf carts, off-road motorcycles, and other vehicles. The fee is \$15 annually and registrations expire on March 31 of each year. The applications must contain the name, address, date of birth, SSN or DNR customer number of the applicant and the requisite fee. The decal sticker must be affixed on the front half of the vehicle and new ones are required if the old one is mutilated, missing destroyed or damaged. Stickers are not required for vehicles owned by the U.S. Government, the State or other units of local government, if the vehicle is operated on land where the owner resides (this exemption does not apply to clubs, associations, leased land for hunting/recreation and outfitters, or other specified properties), used only in competitions, or used for farming/livestock production, or while being used on an off-highway vehicle grant-assisted site if the vehicle already displays an Off-Highway

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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.*

# New Regulations

will comply with the federal Health Insurance Portability and Accountability Act (HIPPA) and Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Retirement systems must report the value of the annuity of each annuitant, retired employee and survivor to DCMS on a monthly basis. The systems must also enroll and terminate their annuitants, survivors, dependents, etc., pursuant to DCMS policies and procedures and State law. DCMS shall calculate the premiums due from retired individuals at 2% of the total annual annuity received by the retired person, or 1% if the retired person is under Medicare or would have been under Medicare but for the fact they were unable to contribute to Medicare while actively working. Any State, university retired person, or retired teacher that retired with less than 20 years' of service must also pay 5% of the cost of the coverage for each year under 20 years of service. Retired persons shall pay the amount that would have been paid by the primary retired person for each dependent. Optional coverage must also be paid for.

Questions/requests for copies/comments concerning on these 2 CMS rulemakings through 8/26/13: Mary Matheny, 720 Stratton Bldg., Springfield IL 62706, 217/557-5404. Fax: 217/558-2697, e-mail: [mary.matheny@illinois.gov](mailto:mary.matheny@illinois.gov).

## SMART ACT RULEMAKINGS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted 11 rulemakings, all effective 6/27/13, implementing Public Act 97-689, the Save Medicaid Access and Resources Together (SMART) Act. These rulemakings replace SMART Act emergency rules effective through 6/30/13 (under extraordinary emergency rulemaking authority granted by SMART) that were published in the 7/13/12, 7/20/12 and 4/12/13 issues of the *Illinois Register*, as well as other emergency amendments modifying those rules.

## GENERAL ASSISTANCE

DHFS adopted amendments to "General Provisions" (89 Ill Adm Code 101; 37 Ill Reg 903) and "Application Process" (89 Ill Adm Code 110; 36 Ill Reg 9886) that remove references to the State-funded General Assistance program abolished by the SMART Act. The Part 101 rulemaking also removes obsolete references to the Department of Public Aid, clarifies which former Public Aid programs are administered by DHFS or the Department of Human Services, updates various definitions (e.g., changing "Food Stamps" to "SNAP"), and states that DHFS handles reports of fraud or abuse related to the Children's Health Insurance Program and the All Kids program. Companion emergency rules at 36 Ill Reg 10176 and 36 Ill Reg 10219 were effective 7/1/12.

## VENDOR APPEALS

Adopted amendments to "Practice in Administrative Hearings" (89 Ill Adm Code 104; 37 Ill Reg 922) establish an appeal process for vendors and alternate payees whom DHFS has terminated, suspended, or excluded from participation in the medical assistance program. Criteria for termination, suspension or exclusion include a risk of fraud, waste, abuse or harm or an "immediate danger to the public"; prior unpaid debts to the Department; lack of proper licensure, certification, or compliance with state or federal regulations; or an ownership connection or other relationship to a vendor with unpaid debts or other causes for adverse action. DHFS may also withhold payments while an audit, administrative appeal, or review is pending and deny payment or credit for services rendered after a vendor or alternate payee has been notified of their suspension or exclusion from the medical assistance program. Since 1<sup>st</sup> Notice, DHFS has added a list of criteria that the Department's Office of Inspector General will use to determine whether to collect interest on recouped overpayments. Medical providers, vendors and alternate payees are affected by

this rulemaking. A companion emergency rule at 36 Ill Reg 10195 was effective 7/1/12.

## FAMILY CARE & ALL KIDS

Adopted amendments to "Special Eligibility Groups" (89 Ill Adm Code 118; 36 Ill Reg 9888) and "Children's Health Insurance Program" (89 Ill Adm Code 125; 37 Ill Reg 992 and 4420) limit FamilyCare eligibility to parents or caretaker relatives whose income is at or below 133% of FPL, clarify the definitions of "All Kids" and "Family-Care", remove obsolete references to the former Kid Care program, and institute copayments for various services rendered to All Kids program enrollees. The Part 118 rulemaking removes grandfathering provisions that formerly allowed persons with incomes from 185% to 400% of FPL to remain enrolled in FamilyCare if they were enrolled on 6/30/09. The Part 125 rulemaking combines two separately proposed rulemakings. Companion emergency rules at 36 Ill Reg 10223 and 10298 were effective 7/1/12, and a Part 125 emergency amendment at 37 Ill Reg 5049 was effective 4/1/13.

## ILLINOIS CARES RX

DHFS repealed the Part titled "Illinois Cares Rx Program" (89 Ill Adm Code 119; 36 Ill Reg 9890). The rulemaking abolishes the Illinois Cares Rx prescription drug program for low-income senior citizens, which provided prescription drug assistance to persons with incomes at or below 200% of the federal poverty level. A companion emergency repealer effective 7/1/12 appeared in the *Illinois Register* at 36 Ill Reg 10229.

## MEDICAID ELIGIBILITY

DHFS adopted amendments to "Medical Assistance Programs" (89 Ill Adm Code 120; 37 Ill Reg 947) that impose stricter limits on certain assets and asset transfers for persons seeking Medicaid assistance for long-term care. Transfers to special needs trusts for

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disabled adults made after the adult reaches age 65 will be treated as asset transfers for less than fair market value (which can delay Medicaid long term care eligibility) unless the disabled person is a ward of the State or of a county. (Formerly, these transfers were allowed regardless of the disabled person's age.) For community spouses living at home while the other spouse is in a nursing home, the rulemaking limits the maximum amount of assets he or she may retain to \$109,560 and limits his/her maximum monthly income allowance to \$2,739. Eligibility for long term care assistance will be denied if a community spouse or institutionalized spouse refuses to disclose assets or income during the application process, and former limits on DHFS' ability to seek support from the community spouse have been removed. Income-producing farmland and farm equipment, as of 1/1/14, will no longer be entirely exempt from consideration as assets, but will be subject to the same \$6,000 exemption limit as other income producing assets. A homestead transferred to a trust on or after 7/1/12 is not exempt unless the applicant's spouse, minor child or disabled child resides there. Other changes affect retroactive eligibility, exemptions for prepaid funeral contracts, and the homestead equity exemption (reduced from \$750,000 to \$525,000, adjusted annually for inflation). The rulemaking also lists the types of primary care providers that may participate in the Recipient Restriction Program (RRP), which limits medical assistance clients deemed to have used medically unnecessary goods or services to a single provider. Since 1<sup>st</sup> Notice, DHFS has delayed implementation of new farmland property exemption rules until 1/1/14 and applied restrictions on property transferred to a trust only to homesteads (instead of all real property). Those affected by this rulemaking include nursing homes, nursing home residents and their spouses, persons who counsel seniors regarding eligibility for long-term care, and care providers enrolled in RRP. Companion emergency rules were adopted at

36 Ill Reg 10253 effective 7/1/12, and at 36 Ill Reg 17549 effective 12/3/12.

## COVERED SERVICES

DHFS adopted amendments to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 1390 and 4429) combining two separately proposed rulemakings. The rulemaking imposes a general reduction of 2.7%, with listed exceptions, to reimbursement rates for non-hospital providers and removes non-emergency adult dental care, adult chiropractic treatment, and podiatry for non-diabetics from the list of covered services. Physical, occupational and speech therapy coverage for adults is limited to 20 visits per year for each type of therapy. Other services (e.g., bariatric surgery, hospice, vision services) are subject to new limitations. Medical assistance recipients are limited to 4 covered prescriptions per month (of which no more than 3 may be brand name prescriptions) unless prior approval is obtained from DHFS. References to medical services formerly covered under General Assistance or the State Transitional Program are removed. Bed reserve payments (payments made to a facility while a resident is temporarily absent, e.g., due to hospitalization) for residents of nursing homes and specialized mental health facilities are abolished. Facilities for the developmentally disabled and pediatric skilled nursing facilities may receive bed reserve payments only for residents under 21 years of age. All newly enrolled vendors are subject to 1 year of provisional enrollment during which the Department may disenroll them for any reason. Providers eligible for the federal 340B Drug Pricing Program must enroll in that program (the effective date of this requirement is 10/1/12, 1/1/13 or 7/1/13 depending on the type of provider) and cannot charge DHFS more than their actual acquisition cost for covered drugs. Effective 2/1/13, a dispensing fee of \$12 per prescription may be paid to providers who dispense drugs purchased through the 340B Program. Definitions of "abuse", "harm", "fraud" and

"waste" applicable to this Part and to Part 104 are added, but diagnostic or therapeutic measures (e.g., additional tests) prescribed as a safeguard against possible liability are excluded from these definitions. Vendors are subject to additional oversight including criminal background checks and fingerprinting. Provisions and criteria for DHFS actions against vendors and alternate payees are outlined. Provider claims must be submitted within 180 days (formerly 12 months) with some exceptions. The current hospital assessment program is extended through 12/31/14. The rulemaking institutes copayments of \$2 for generic and over the counter drugs. For office visits, brand name drugs and encounters billed by specified types of clinics, the federal minimum copayment of \$3.65 for federal fiscal year 2012 applies from 7/1/12 through 3/31/13, increasing to \$3.90 (the federal FY2013 amount) effective 4/1/13. Copayments cannot be charged for psychiatric or behavioral services through 6/30/13, but will be applied after that date. Drugs for HIV/AIDS and cancer treatment are no longer exempt from prior approval. The dispensing fee paid to pharmacies is set at \$5.50 for generic drugs and \$2.40 for brand name drugs. Brand name prescription drugs in pill form must be dispensed in no more than 14-day supplies to residents of long term care facilities (other than facilities for the developmentally disabled), but only one dispensing fee will be paid for each 30-day supply. The benchmark price paid to pharmacies for all prescription drugs is wholesale acquisition cost (WAC). A State upper limit may be imposed for drugs prescribed by non-pharmacy providers. Since 1<sup>st</sup> Notice DHFS has added an effective date of 7/1/12 to many provisions to reflect their implementation by emergency rule and allowed copayments to be charged for behavioral health services starting 7/1/13. Those affected by this rulemaking include medical and dental providers, hospitals, long term care facilities, pharmacies, therapists, and other medical vendors. Companion emergency rules were adopted at 36 Ill Reg

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11329, effective 7/1/12; at 36 Ill Reg 14820, effective 9/21/12; and at 37 Ill Reg 5058, effective 4/1/13.

## HOSPITALS

DHFS adopted amendments to "Hospital Services" (89 Ill Adm Code 148; 37 Ill Reg 1018 and 4455) that impose a \$900 reduction on inpatient hospital claims for dates of service on or after 7/1/12 if the patient experiences a hospital acquired condition (HAC), such as an infection, during the stay. For other provider preventable conditions (OPPCs) such as surgical mistakes, HFS will refuse payment. The \$900 payment reduction for HACs will remain in effect until DHFS implements the All Patient Refined Diagnosis Related Groups (APR-DRG) system in rule. (The APR-DRG system will enable DHFS to isolate costs attributable to HACs and OPPCs and refuse payment only for those specific costs.) Hospitals must code primary and secondary diagnoses with "present on admission" (POA) codes indicating whether the condition was present at the time of admission. Payment will be denied for patients age 21 or older admitted for alcohol or drug detoxification within 60 days of a previous admission. Payment for caesarian sections is limited to the rate for natural deliveries unless the caesarian was medically necessary. Payment for outpatient rehabilitation services is made through the non-institutional provider system and is subject to the 3.5% hospital rate cut outlined in amendments to 89 Ill Adm Code 152. Various supplemental payments to hospitals with high volumes of Medicaid patients are extended through 12/31/14. The rulemaking applies federally prescribed copayments (\$3.65 per day or per visit from 7/1/12 through 3/31/13; \$3.90 effective 4/1/13; formerly, \$2 or no copayment) to inpatient services and to non-emergency services rendered in an emergency room. Claims for services provided to sexual assault victims will be paid at the DHFS rate (formerly, the provider's customary charge to the public for the same service) and must be submitted

within 180 days. Finally, the rulemaking abolishes rules for the Excellence in Academic Medicine program, which provided additional payments to designated teaching hospitals. Since 1<sup>st</sup> Notice, DHFS accelerated supplemental payments to 2 hospitals (Ingalls and University of Chicago) so that they would be completed on 6/30/13 and added applicable effective dates to provisions implemented by emergency rule. Companion emergency rules were adopted at 36 Ill Reg 10326, effective 7/1/12; 36 Ill Reg 14849, effective 9/21/12; 36 Ill Reg 18976, effective 12/12/12; and 37 Ill Reg 5082, effective 4/1/13.

DHFS also adopted amendments to "Hospital Reimbursement Changes" (89 Ill Adm Code 152; 37 Ill Reg 1102) that impose a general 3.5% rate cut upon most hospitals and implement policies designed to reduce potentially preventable readmissions (PPR). Hospitals exempted from the rate cut include Safety Net Hospitals, Critical Access Hospitals, and certain hospitals operated by a unit of local government or a state university. The reduction also does not apply to certain payments specified in SMART. The rulemaking freezes the supplemental per diem rate for long term acute care hospitals at the 10/1/10 level and bars new long term acute care hospitals from enrolling in the program after 6/14/12 (the effective date of SMART). Hospitals located in counties where DHFS requires medical assistance recipients to enroll in a care coordination program (CCP) cannot receive supplemental payments unless they begin participating in the CCP by 8/14/12, or within 60 days after mandatory CCP enrollment begins in those counties. Effective 1/1/13, hospitals that experience PPRs in excess of a targeted rate of readmission determined for each hospital by DHFS will have their payment rates for FY13 reduced. A readmission is defined as a subsequent inpatient admission, to the same hospital or to another, that occurs within 30 days after discharge from a previous admission and is clinically related to the

previous admission. DHFS will use software created by the 3M Corporation to determine whether a readmission was potentially preventable. The emergency rule specifies which types of readmissions are excluded from PPR calculations (e.g., planned readmissions, admissions for non-acute care, readmissions of Medicare/Medicaid dual eligible patients) and establishes methodologies for calculating a hospital's targeted and actual rates of readmission and its payment reduction, if applicable. Targeted rates of readmission and payment reductions for FY13 will be further adjusted in order to achieve savings to the State specified in the SMART Act. Since 1<sup>st</sup> Notice, the PPR provisions have been amended to include a definition of "clinically related" and to stipulate that after all hospitals in aggregate have achieved the SMART Act's \$40 million FY13 PPR savings goal, no further payment reductions will be imposed upon individual hospitals. A companion emergency rule at 36 Ill Reg 10410 was effective 7/1/12 and another emergency rule at 37 Ill Reg 282 was effective 1/1/13.

## LONG TERM CARE

Adopted amendments to "Long Term Care Reimbursement Changes" (89 Ill Adm Code 153; 37 Ill Reg 1112) impose a 2.7% rate cut upon supportive living facilities, mental health facilities, and nursing homes designated as Institutions for Mental Disease (IMDs). The rulemaking also abolishes bed reserve payments for adult residents of nursing homes, mental health facilities, and institutions for the developmentally disabled during temporary absences and removes a \$10 per day/resident payment to nursing homes for residents with developmental disabilities. For nursing facilities not designated as IMDs, the support and capital components of payment rates are reduced 1.7% and other rate components will be based upon the number of residents in various Resource Utilization Groups (RUGs) that classify residents according to their level of care. Payment rates for resi-

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dents in lower-level RUGs will be reduced 10%, while rates for those in higher-level RUGs will be reduced 1%. A companion emergency rule at 36 Ill Reg 10416 was effective 7/1/12.

Questions/requests for copies of the 11 DHFS rulemakings above: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233.

## 911 SYSTEMS

The ILLINOIS COMMERCE COMMISSION adopted a new Part titled "Standards of Service Applicable to 9-1-1 Emergency Systems" (83 Ill Adm Code 725; 26 Ill Reg 9539) and repealed the former Part with the same Title and Part number (36 Ill Reg 9493), effective 7/1/13. The rulemakings implement two Public Acts. PA 96-25 created a new certification category and authorizes ICC to certify entities requesting to operate as 9-1-1 system providers (including new competitors that may not necessarily function as telecommunications carriers). PA 96-927 updates the Public Utilities Act to reflect recent changes in telecommunications technology. Covered changes include authorization to operate as a 9-1-1 system; management systems, standards of service; operations; and collection of the 9-1-1 surcharge.

Questions/requests for copies: Brian Allen, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/785-8439.

## INSURANCE

The DEPARTMENT OF INSURANCE adopted a new Part titled "Insurance Oversight Data Collection" (50 Ill. Adm Code 2907; 36 Ill Reg 9749), effective 6/26/13, required by a new section of the Workers' Compensation Act enacted by Public Act 97-18. That new statutory provision directed the Department to adopt rules requiring each insurer licensed to write workers' compensation coverage to record and report information to the Department by March 1 (beginning in 2014) re-

garding workers' compensation claims opened during the prior year. The information required to be filed includes the company's FEIN and National Association of Insurance Commissioners numbers; the company name and contact entity; the number of claims opened and contested; the number of claims for which the employee has legal representation, as well as those claims in which the company's in-house or outside legal counsel participated, and the total amount paid for such legal services; various breakdowns of the amount of days of lost work; total amounts billed to employers for bill review, for fee schedule savings and managed care fees, as well as medical nurse management, independent medical exams and in-house utilization review and other items. Since 1<sup>st</sup> Notice, DOI changed the reporting deadline for 2013 to September 1, added the company phone number to the list of required information, and added new items to be reported concerning total amounts billed to employers for bill review. Also, references to "man hours" were changed to "person hours". Providers of workers' compensation coverage will be affected.

Questions/requests for copies: Robert Rapp, IDOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-1680.

## NURSES AIDE TRAINING

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Long-Term Care Assistants and Aides Training Programs Code"; (77 Ill Adm Code 395; 36 Ill Reg 10584), effective 6/27/13, to reflect changes in the minimum requirements for the Basic Nursing Assistant Training Program, which has not been amended since 1993. Extensive amendments add course requirements for program participants and a curriculum for a "Train the Trainer" program. Other provisions update definitions, State and federal regulations referenced in the Part, and the approval and oversight process for nursing assistant training programs.

Since 1<sup>st</sup> Notice, DPH has added definitions of "Direct Support Person", "Course Coordinator", and "Person Centered Planning"; clarified who may serve as a classroom and laboratory instructor of students in a training program; retained the current requirement of one year experience within the last 3 (originally 5) years working with mentally ill persons for all students in a psychiatric rehabilitation aide training program to be exempted from the minimum 120 hours of instruction; added facilities and programs for the intellectually disabled as approved training program sponsors; and added a reference to advance care directives known as Physician's Orders for Life Sustaining Treatment (POLST). Nursing assistants, their instructors and sponsors of training programs are affected by this rulemaking.

## FIRST RESPONDERS

DPH also adopted amendments to "Emergency Medical Services and Trauma Center Code" (77 Ill Adm Code 515; 37 Ill Reg 1850), effective 6/25/13, that repeal the current Section containing requirements for First Responder registration. The rulemaking combines requirements for licensing First Responders and Emergency Medical Responders into one Section covering application process, continuing education requirements, and licensure renewal procedure. DPH requires First Responders that are not associated with an EMS system to have equipment available to provide a standard of care established by the National EMS Educational Curriculum for the First Responder. This rulemaking may impact local government units, local hospitals and small businesses that employ first responders.

Questions/requests for copies the 2 DPH rulemakings above: Susan Meister, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL, 62761, 217/782-2043, e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov).

## UNIVERSITIES RETIREMENT

# New Regulations

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The STATE UNIVERSITIES RETIREMENT SYSTEM adopted amendments to "Universities Retirement" (80 Ill Adm Code 1600; 37 Ill Reg 763), effective 6/25/13, to revise its administrative hearing process. A panel shall hear all administrative contested matters and shall meet periodically as determined by the Director of SURS, with one member serving as hearing officer and head of the panel. A request for review of claims panel decisions must be received by the SURS general counsel or designee within 35 days from the date of decision from which review is sought. The review request shall be assigned a docket number and scheduled for the first available meeting of the claims panel, with the claimant given a notice of hearing. The rulemaking also specifies timelines and content for a statement of claim and criteria for preserving testimony from a deposition. A claimant may then demand a hearing or allow the panel to make its decision based upon documents in the claim file and other submissions. While hearings are conducted by the hearing officer, other members of a claims panel may attend in person or by video or teleconference. A motion to disqualify a hearing officer must be filed by a party at least 14 (currently, 7) days prior to the commencement of a hearing. Deadlines for filing statements of exceptions and briefs are expanded slightly. The date of mailing a decision shall constitute the date of service for purposes of the Administrative Review Law.

Questions/requests for copies: Michael Weinstein, SURS, 1901 Fox Dr., Champaign IL 61820, 217/378-8825.

## STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to "Pay Plan" (80 Ill Adm Code 310; 37 Ill Reg 3462) effective 6/

27/13. The rulemaking changes the general effective date for pay rates in the Part to fiscal year 2014 and clarifies how pay rates are determined when a job classification under the Personnel Code is represented by one bargaining unit with one pay grade (whole class) or by more than one bargaining unit with multiple pay grades (divided class). Divided classes as of 2/21/13 are listed. The rulemaking also institutes the job titles of Blasting Expert, Blasting Specialist and Blasting Supervisor (formerly Public Service Administrator options) and assigns them to a bargaining unit represented by the Service Employees International Union (SEIU). A memorandum of understanding assigning bargaining unit pay rates to the titles of Cancer Registrar I and III, Cancer Registrar Manager and Assistant Manager, and Sex Offender Therapist I and II is also implemented. Other provisions update or correct references to titles affected by previous peremptory and adopted 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](mailto:CMS.PayPlan@illinois.gov).

## PUBLIC RECORDS

The CAPITAL DEVELOPMENT BOARD repealed a Part titled "Access to Information" (2 Ill Adm Code 1651; 37 Ill Reg 9909) and adopted a new Part titled "Access to Records of the Capital Development Board" (2 Ill Adm Code 1651; 37 Ill Reg 9911), both effective 6/27/13, in accordance with the required rulemaking process in Section 5-15 of the Illinois Administrative Procedure Act. The rulemakings implement Public Act 96-542, an extensive revision of the Illinois Freedom of Information Act (FOIA) that affects what documents and information agencies must make public, the

timelines for providing such information, and the appeals process when a request for information is denied. Under the Act and the new Part, information that must be disclosed includes records of funds, payrolls, settlement agreements, and some criminal history records. Information exempt from disclosure includes personal information (e.g., Social Security numbers, home addresses); certain personnel information exempt under the Personnel Record Review Act; attorney-client communications; minutes of closed meetings; and information that could compromise a person's or facility's security, jeopardize a law enforcement investigation, or interfere with a person's right to a fair trial or impartial hearing. Other provisions specify how and to whom a request for public information should be submitted, shorten the timeline for CDB response to a request from 7 to 5 business days, and list conditions under which the agency may extend the timeline (e.g., if a large number of records are sought or if they require an extensive search to locate). Provisions for appealing a denial of requested documents to the Attorney General's public access counselor and for filing legal actions seeking disclosure of records are also included. Original records may be inspected and copied at CDB headquarters and off-site copying may be allowed under the constant supervision of agency staff. Contractors, rather than agency personnel, may copy the records under certain conditions. The new Part also lists charges for copies made in various formats. Those affected by these rulemakings include individuals, groups, or business entities seeking public information or documents from the CDB.

Questions/requests for copies: Thomas Klein, CDB, 401 S. Spring St., Stratton Bldg. 3<sup>rd</sup> Floor, Springfield IL 62706, 217/782-0700, fax 217/524-0565.

# Proposed Regulations

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Vehicle Access decal. Businesses and non-profit organizations that own or rent off-road vehicles will be affected.

Questions/requests for copies/comments through 8/26/13: Julia Lawrence, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

operator providers or payout systems can no longer redeem existing tickets, the location must provide a facility payout. If a location ceases to be operational for more than 10 consecutive days, it must post a sign at the location and on all internet sites of the name and phone number of the terminal operator where unredeemed tickets can be paid. When patrons cannot redeem tickets because of a change in payout devices or closure of a gaming location, the terminal operator must keep a log or database of all issued and unredeemed tickets for no less than one year. Terminal operators, licensed video gaming locations and prospective terminal operators and video gaming locations may be affected by this rulemaking.

## RIVERBOAT GAMING

IGB also proposed amendments to "Riverboat Gambling" (86 Ill Adm Code 3000; 37 Ill Reg 9855) amending the definition of adjusted gross receipts to mean gross receipts minus the winnings paid to wagers including the value of any expired vouchers. Promotional coupons may now be used as wagers in accordance with the Owner's licensee's Internal Control System and rules about match play coupons are being repealed. Finally, vouchers may now be issued or redeemed at cashier cages as well as voucher printers connected to an electronic gaming device.

Questions/requests for copies/comments on the 2 IGB rulemakings through 8/26/13: Emily Mattison, IGB, 160 N. LaSalle St, Chicago, IL 60601, 312/814-7253, email: [emily.mattison@igb.illinois.gov](mailto:emily.mattison@igb.illinois.gov).

## DIALYSIS TREATMENT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to "Hospital Services" (89 Ill Adm Code 148; 37 Ill Reg 9875) providing an add-on payment of \$60 per treatment day to hospitals and free-standing chronic kidney dialysis centers for outpatient or home dialysis treatments. The add-on payment applies to dates of service on or after 7/1/13.

Questions/requests for copies/comments through 8/26/13: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl. Springfield IL 62763-0002, 217/782-1233.

## DRINKING WATER ANALYSIS

The ENVIRONMENTAL PROTECTION AGENCY proposed amendments to "Testing Fees for Analytical Services" (35 Ill Adm Code 691; 36 Ill Reg 10565) that implement provisions of Public Act 97-220 eliminating requirements that EPA determine drinking water program analysis fees in consultation with the Community Water Supply Testing Council. Instead, EPA must base its annual fee determination on actual and anticipated testing costs. The rulemaking further updates the Part regarding the program's notification and participation process. Small businesses or small municipalities that test or operate public drinking water supplies are affected by this rulemaking.

Questions/requests for copies/comments through 8/26/13: Sara Terranova, EPA, 1021 N. Grand Ave. E., Springfield IL 62794-9276, 217/782-5544; email: [sara.terraova@illinois.gov](mailto:sara.terraova@illinois.gov).

## VIDEO GAMING

The ILLINOIS GAMING BOARD proposed amendments to "Video Gaming (General)" (11 Ill Adm Code 1800; 37 Ill Reg 9833) amending the definition of adjusted gross receipts to mean gross receipts minus the winnings paid to wagers including the value of any expired vouchers. Additionally, the rules restricting areas for video gaming terminals are clarified to require a physical barrier (e.g., short partition, gate, rope) in locations that do not restrict admittance to people age 21 or older. If a location does restrict admittance to people over 21, no separate restricted area is required. Terminal operators may sell or transfer terminals to another operator but first must receive written authorization from the Gaming Board Administrator. Additional record keeping requirements for locations that make facility payouts are being added. Each location must keep the date and time of payment; the amount paid; the terminal license number, payout device number or ticket number; and the name of the person making the payment. Finally, new requirements are being added for redeeming tickets if the payout devices are removed or unavailable. If a location changes

# JCAR Meeting Action

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At its July 9 meeting, the Joint Committee on Administrative Rules voted to prohibit filing of a proposed rulemaking, object to two proposed rules, and issue recommendations concerning a proposed rule and two emergency rules. The Committee and the following agencies also agreed to extend for an additional 45 days the Second Notice periods for the following rulemakings: Department of Central Management Services, "Business Enterprise Program: Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities" (44 Ill Adm Code 10; 37 Ill Reg 3460; moved to 2<sup>nd</sup> Notice on 6/7/13) and Illinois Emergency Management Agency, "Accrediting Persons in the Practice of Medical Radiation Technology" (32 Ill Adm Code 401; 37 Ill Reg 2783; moved to 2<sup>nd</sup> Notice on 6/6/13).

## **DEPARTMENT OF INSURANCE**

JCAR objects to and prohibits filing of the rulemaking titled "Health Maintenance Organization" (50 Ill Adm Code 5421; 36 Ill Reg 12957) because, by retaining the 50% cap on copayments and deductibles, the aim of permitting some HMO customers to obtain high deductible plans, as expressed by PA 97-1148, is not achieved. JCAR finds that this constitutes a threat to the public interest. (The rulemaking requires insurers to waive deductibles and copayments when the policyholder exceeds the out-of-pocket expense limits set in the federal Affordable Care Act. However, it retains the existing cost-sharing limit of up to 50% of covered medical expenses.)

## **DEPARTMENT OF PUBLIC HEALTH**

With regard to the rulemakings titled "Child Health Examination Code" (77 Ill Adm Code 665; 37 Ill Reg 60) and "Immunization Code" (77 Ill Adm Code 695; 37 Ill Reg 77), JCAR objects to the Department's failure to adhere to the statutory directive that it implement these provisions of PA 95-159 by 9/13/07.

## **DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY**

Concerning the rulemaking titled "Illinois Film Production Services Tax Credit Program" (14 Ill Adm Code 528; 36 Ill Reg 9823), JCAR recommends that DCEO be more timely in updating its rules when statutory changes are enacted.

## **DEPARTMENT OF NATURAL RESOURCES**

With regard to the emergency rules titled "Illinois Veteran Recreation Corps Grant Program" (17 Ill Adm Code 3080; 37 Ill Reg 8963) and "Illinois Youth Recreation Corps Grant Program" (17 Ill Adm Code 3075; 37 Ill Reg 8953), JCAR recommends that when the Department proposes permanent versions of these rules, it include the wage rate to be paid to youth and supervisors. Section 5-10(c) of the Illinois Administrative Procedure Act specifically states that no agency policy is valid, and shall not be invoked, unless adopted as rule.

# **Second Notices**

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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 August 13, 2013 meeting.

## **SECRETARY OF STATE**

"Issuance of Licenses" (92 Ill Adm Code 1030) proposed 5/17/13 (37 Ill Reg 6630)

## **DEPARTMENT OF PUBLIC HEALTH**

"Illinois Vital Records Code" (77 Ill Adm Code 500) proposed 4/26/13 (37 Ill Reg 5298)