

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

PUBLIC UTILITIES

The ILLINOIS COMMERCE COMMISSION adopted a new Part titled "Utility Service of Military Personnel in Military Service" (83 Ill Adm Code 281; 37 Ill Reg 1835), effective 7/2/13, that implements a provision of Public Act 97-913 that prohibits the stoppage of gas or electric service to military personnel for nonpayment of charges immediately before those persons entered service. A companion emergency amendment appeared in the *Illinois Register* at 37 Ill Reg 2341. The rulemaking establishes what documents or proof the service member must provide to the utility to establish that the residential premises was the primary residence of the member immediately before he or she entered service; what constitutes "hardship to the consumer" as the term applies to military personnel returning from service; and the mechanics by which a utility that does not have in effect an automatic adjustment clause tariff may recover the uncollectible costs it incurs in complying with the requirements.

TELECOMMUNICATIONS

ICC also adopted amendments to "Telephone Assistance Programs" (83 Ill Adm Code 757; 36 Ill Reg 13749), effective 7/2/13, to conform the Part to changes in federal requirements and to changes in federal telephone assistance programs. The changes eliminated federal Linkup assistance (provides eligible low income customers with discounted service installation) and eliminated Lifeline (discounted monthly phone service charges for such persons) customer eligibility requirements since the FCC has established uniform nationwide requirements. Since 1st Notice, ICC changed references from 2012 to 2013; added a definition of "member agreement"; allowed low-income subscribers seeking or receiving benefits under the UTSAP program to appeal to ICC; listed requirements LECs must comply with to receive payments from UTSAP; required eligible telecommunications carriers to complete Exhibit A and file an original of the report with ICC within 30 days after the end of each calendar quarter; revised Exhibit

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FISHING & FURBEARER HUNTING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to the rulemaking titled "Sport Fishing Regulations for the Waters of Illinois" (17 Ill Adm Code 810; 37 Ill Reg 11027) and "Raccoon, Opossum, Striped Skunk, Red Fox Gray Fox, Coyote and Woodchuck (Groundhog) Hunting" (17 Ill Adm Code 550; 37 Ill Reg 11010). In Part 810, DNR is expanding the dates of bow and arrow fishing that allows carp, buffalo, suckers and gar to be taken anytime the site is open to the public. In Part 550, DNR is making approximately 67 site specific changes (most of them related to use of windshield cards) and moving back the annual opening day of hunting from February 15th to March 15th.

Questions/requests for copies/comments for the 2 DNR rulemakings through 9/2/13: Part 810: Julia Lawrence; Part 550: Nick San Diego, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

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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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A; and added Exhibit B that details LEC's annual reports to ICC.

Questions/requests for copies of the 2 ICC rulemakings: Brian Allen, ICC, 527 E. Capitol Ave., Spfld. IL 62701, 217/558-2387.

ABANDONED HOUSING

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted a new Part titled "Abandoned Residential Property Municipality Relief Program" (47 Ill Adm Code 381; 37 Ill Reg 1537), effective 7/3/13, that concerns grants to local governments to cover the costs of dealing with abandoned housing. This rulemaking incorporates revisions from Public Act 97-1164 which expands the program to include counties and funds the program by requiring financial institutions that initiate a high number of foreclosures to pay an extra foreclosure filing fee. The rulemaking includes application procedures for program funds, establish criteria for declaring a property abandoned, and list the appropriate uses for grant funds issued under this program.

Questions/requests for copies: Kristi S. Poskus, Esq., IHDA, 401 N. Michigan Ave., Suite 700, Chicago, IL 60611; 312/836-5200.

DHS RESIDENTIAL SCHOOLS

The DEPARTMENT OF HUMAN SERVICES adopted amendments to "Special Education Program and Services" (89 Ill Adm Code 765; 36 Ill Reg 14553) that revise Department residential schools rules' terminology and program practices for consistency between rules. Part 765 amendments clarify that a student's eligibility for special education services in Department schools continues until the last day before his or her 22nd birthday. This rulemaking also adds the Health Insurance Portability and Accountability Act (HIPAA) to the list of laws and policies to which a school must adhere. School personnel standards are

clarified to reflect that teachers must be considered highly qualified, as defined by the federal No Child Left Behind Act of 2001. Speech and language clinicians are limited to a caseload of 60 (currently 80). Clients will be provided additional services or arranged for by the school after a DHS eligibility review has determined the need for those services. This rulemaking also states that community work experience may occur during the school day or outside of the school day and which school personnel may supervise those activities. Since 1st Notice DHS has clarified which personnel are appropriate for such supervision.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.

NATURAL RESOURCES

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Parts titled "Consultation Procedures for Assessing Impacts of Agency Actions on Endangered and Threatened Species and Natural Areas" (17 Ill Adm Code 1075; 37 Ill Reg 3390) and "Designation of Restricted Waters in the State of Illinois" (17 Ill Adm Code 2030; 37 Ill Reg 3397), both effective 7/5/13. In Part 1075, the rulemaking institutes a new consultation fee of \$500 for consultation services provided by DNR to the applicant. The fee must be paid by credit card, electronic funds transfer (using DNR's "EcoCAT" online system) or by certified or cashier's check. Applications not containing the entire fee will be considered incomplete and the fee is non-refundable under any circumstances. A change since 1st Notice replaced the term "e-check" with "electronic funds transfer". This rulemaking will affect municipalities and units of local government that request DNR consultation regarding environmental impacts. The Part 2030 amendment adds night speed limit regulations of the Fox Waterway Agency to the Part in order to allow enforcement by DNR

Conservation Police Officers.

Questions/requests for copies of the 2 DNR rulemakings: Shelly Knuppel, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

AIDS DRUG ASSISTANCE

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "AIDS Drug Assistance Program" (77 Ill Adm Code 692; 37 Ill Reg 3624) effective 7/2/13. The rule provides that applicants in the 301% to 500% FPL income bracket who have not had creditable coverage for 6 months prior to application, but were eligible for creditable coverage recently offered under a State or federal government entity, will be considered to have had active prescription coverage. According to DPH, the rule is intended to cover persons who would have qualified for the Illinois pre-existing condition insurance plan, which suspended new enrollment on 3/2/13 pending full implementation of the federal Affordable Care Act on 1/1/14. The rule also defines creditable coverage, incorporates an applicable federal regulation, defines "AIDS Drug Assistance Program" and removes obsolete references to Illinois Cares Rx, which was abolished on 7/1/12. A companion emergency rulemaking, appeared in the *Illinois Register* at 37 Ill Reg 3899.

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.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted emergency amendments to "Pay Plan" (80 Ill Adm Code 310; 37 Ill Reg 11395), effective 7/1/13 for a maximum of 150 days. A companion proposed rulemaking appears in this week's *Illinois Register* at 37 Ill Reg 10740. The emergency and proposed rules repeal all remaining provisions institut-

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ing a fiscal year 2012 pay freeze for employees of 6 State agencies (Human Rights Commission and the Departments of Corrections, Juvenile Justice, Human Services, Natural Resources, and Public Health) that had not been removed from the freeze by subsequent collective bargaining agreements. More than 23,000 State employees (including more than 9,000 each at DOC and DHS) will retroactively receive pay increases due under their previous collective bargaining contracts. Both rulemakings also raise maximum broad-band salaries for 6 job titles (Public Service Administrator, Senior Public Service Administrator, Health Information Administrator, Residential Services Supervisor, Human Resources Representative, Residential Services Supervisor, and Human Resources Specialist) and remove designated rates for SPSAs at DHS, DPH and the Illinois Gaming Board that have been superseded by the higher maximum pay rate. An out-of-State broad-band rate adjustment for State employees (PSA Option 1

and SPSA) working outside of Illinois is also removed. CMS states that these changes will allow individuals in the affected positions to maintain their current salaries if they are removed from bargaining units and assigned merit compensation system (MS) pay rates pursuant to Public Act 97-1172. Both rules also make corrections to pay tables for educators and educator trainees represented by AFSCME. Provisions contained only in the proposed rulemaking include corrections to title codes and midpoint salaries included in the Department of Transportation Technical Pay Plan effective 1/1/12. The proposed rulemaking implements longevity pay provisions included in a recent 3-year contract between Teamsters Local 916 and CMS, DOT and DNR. Finally, the proposed rule changes the bargaining unit for DNR Conservation Police sergeants, lieutenants, and captains from Laborers' International Union of North America-Illinois State Employees' Association (ISEA) to the Fraternal Order of Police.

CMS also adopted peremptory amendments to "Pay Plan" (80 Ill Adm Code 310; 37 Ill Reg 11524) effective 7/3/13 implementing collective bargaining agreements with ISEA, the Illinois Nurses' Association (INA), and the Metropolitan Alliance of Police (MAP), as well as 2 memoranda of understanding with the American Federation of State, County and Municipal Employees (AFSCME). The ISEA, INA and MAP contracts are all effective 7/1/12 through 6/30/15. The AFSCME MOUs implement bargaining unit pay rates for the titles of Private Secretary I and Senior Public Service Administrator Option 3.

Questions/requests for copies of the emergency and peremptory rules, and comments on the proposed rulemaking through 9/3/13: Jason Doggett, DCMS, 720 Stratton Bldg., Springfield IL 62706, 217/782-7964, fax 217/524-4570, e-mail: CMS.PayPlan@illinois.gov.

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STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION proposed amendments to "The John R. Justice Student Loan Repayment Program" (23 Ill Adm Code 2754; 37 Ill Reg 11272) that defines a service agreement and allows flexibility in the amount of years that a recipient must work as a public defender or prosecutor in order to have their student loans repaid. Small municipalities or units of local government may be affected by this rulemaking.

Questions/requests for copies/comments concerning the ISAC rulemaking above through 9/2/13: Lynn Hynes, ISAC, 1755 Lake Cook Rd, Deerfield IL 60015, 847/948-8500, ext. 2305, Fax: 847/831-8299, e-mail: lhynes@isac.org.

COMMUNITY CARE PROGRAM

The DEPARTMENT ON AGING proposed amendments to "Community Care Program" (89 Ill Adm Code 240; 34 Ill Reg 10738) that requires in-home service providers to use and maintain electronic visit verification (EVV) systems that use cell phone or global positioning systems and/or other technologies to verify a home visit, when a program participant doesn't have a phone or refuses to allow its use. Provisions related to the previous automated timekeeping system is being removed. Small business and not-for-profits who are service provider agencies may be affected by this rulemaking.

Questions/requests for copies/comments concerning the rulemaking

above through 9/2/13: Karen Alice Kloppe, Deputy General Counsel, Illinois Department on Aging, One Natural Resources Way, Suite 100, Springfield IL 62702-1271. 217/785-3346.

HOSPITALS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 10941) and "Hospital Services" (89 Ill Adm Code 148; 37 Ill Reg 10980) implementing outpatient hospital assessments created by Public Act 97-688. The Part 140 amendments impose an assessment on outpatient services beginning 6/10/12 and ending 12/31/14, based upon affected hospitals' outpatient gross revenue, and include provisions for calculating

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the assessment. Outpatient assessments are due to be paid on the 14th State business day of each month, provided that DHFS has received federal approval for its payment methodologies and that the hospital has received any adjustment payments due under the Public Aid Code. The Part 148 amendments specify which hospitals qualify for various adjustment payments (e.g., magnet and perinatal hospitals, Level II trauma centers, specialty hospitals, hospitals with high percentages of Medicaid patients) and include provisions for hospitals to appeal rate reviews they believe to be in error. Appeals must be submitted in writing within 30 days after DHFS notifies the hospital of its rate determination and must include documentation of the desired correction. DHFS must respond to such appeals within 30 days after receipt.

Questions/requests for copies/comments through 9/3/13: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233.

EMERGENCY MEDICAL SERVICES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Emergency Medical Services and Trauma Center Code" (77 Ill Adm Code 515; 37 Ill Reg 11205) that implement Public Act 96-514 calling for the de-

velopment of a Stroke Program in Illinois. Covered topics include creation of an EMS Region Plan concerning stroke; the triage, treatment and transport of possible acute stroke patients; creation of Regional Stroke Advisory Subcommittees and a State Stroke Advisory Subcommittee; designation of hospitals as certified Primary Stroke Centers and Emergency Stroke Ready Hospital by DPH; grants to hospitals for the acquisition and maintenance of necessary infrastructure; and reports. Affected entities include hospitals that would like to become an Primary Stroke Center or Emergency Stroke Ready hospitals.

HOSPITAL LICENSING

DPH also proposed amendments to "Hospital Licensing Requirements" (77 Ill Adm Code 250; 37 Ill Reg 11128) that implements provisions of Public Act 97-485, which provides minimum requirements for discrimination grievance procedures and a new requirement for hospitals to post an anti-discrimination notice in emergency rooms. Requirements for telemedicine services are added. A provision of Public Act 97-667 is added exempting long-term acute care hospitals from the requirement that each hospital provide emergency services. The rulemaking is also amended to implement statutory language from provisions of Public Act 97-122 enhancing

existing safe patient handling standards by establishing minimum requirements for protecting patient dignity, self-determination, and choice. Statute reflecting infant feeding policies is added. Definitions are added and incorporations by reference are updated.

Questions/requests for copies/comments on the above 2 DPH rulemakings until 9/2/13: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761-0001, 217/782-2043, e-mail: dph.rules@illinois.gov.

UTILITY/TELEPHONE RATE INCREASES

The COMMERCE COMMISSION proposed amendments to "Standard Requirements for Public Utilities and Telecommunications Carriers in Filing for an Increase in Rates" (83 Ill Adm Code 285; 37 Ill Reg 10903) that simplify the requirements governing the information that these entities must submit to ICC in seeking rate increases and clarify and update other provisions in the Part.

Questions/requests for copies/comments through 9/2/13: Elizabeth Rolando, Chief Clerk, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

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 August 13, 2013 meeting.

DEPARTMENT OF HUMAN SERVICES

"Aid to the Aged, Blind or Disabled" (89 Ill Adm Code 113) proposed 4/26/13 (37 Ill Reg 5268)

DEPARTMENT OF INSURANCE

"Construction and Filing of Life Insurance and Annuity Forms" (50 Ill Adm Code 1405) proposed 9/7/12 (36 Ill Reg 13797)