

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

GAS PIPELINES

The ILLINOIS COMMERCE COMMISSION adopted an amendment to "Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities" (83 Ill Adm Code 590; 35 Ill Reg 3878), effective 9/10/13 that incorporates updated federal Department of Transportation safety regulations (effective 1/1/13) for pipeline transport of gas and liquefied natural gas. Regulated entities will also be required to submit to ICC copies of reports they submit to the federal Pipeline and Hazardous Materials Safety Administration. Small businesses that own, operate, or repair gas pipelines may be affected by this rulemaking.

Questions/requests for copies: Brian Allen, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/558-2387.

INSURANCE

The DEPARTMENT OF INSURANCE adopted amendments to "Construction and Filing of Life Insurance and Annuity Forms" (50 Ill Adm Code 1405; 36 Ill Reg 13797), effective 9/4/13, to implement statutory changes made to required standard insur-

ance policy provisions in the Illinois Insurance Code. A policy may require that proof of death of an insured shall consist of a certified copy of the death certificate of the insured, or other lawful evidence providing equivalent information, as well as proof of the claimant's interest in the proceeds of the policy. Insurance companies will also be required to include a consumer assistance telephone number on the policy form.

DOI also adopted amendments to "Summary Document and Disclaimer" (50 Ill Adm Code 3401; 36 Ill Reg 14484), effective 1/1/14, implementing a recent statutory change that increased limits for Life, Accident and Health Guaranty Fund products. This rulemaking alters the format of a Summary Document and Disclaimer notice to be provided to customers. Protection provided by the Illinois Life and Health Insurance Guaranty Association if a customer's primary carrier becomes insolvent shall now be: for life insurance, \$300,000 in death benefits and \$100,000 in cash surrender or withdrawal; for health insurance, \$500,000 in hospital, medical and

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AFFORDABLE CARE ACT

The DEPARTMENT OF INSURANCE (DOI) proposed 3 amendatory rulemakings and one new Part to further implement State compliance with the federal Affordable Care Act (ACA). The new Part is titled "Navigator, In-Person Counselor and Certified Application Counselor Certification" (50 Ill Adm Code 3125; 37 Ill Reg 15238). Amendments have been proposed to "Minimum Standards of Individual Accident and Health Insurance" (50 Ill Adm Code 2007; 37 Ill Reg 15191); "Managed Care Reform and Patient Rights" (50 Ill Adm Code 5420; 37 Ill Reg 15251); and "Health Maintenance Organization" (50 Ill Adm Code 5421; 37 Ill Reg 15270). Numerous rule provisions rely on or cross reference federal rules that are not detailed in the rulemaking. Readers are advised to read the rules carefully and contact the Department if they have inquiries.

Amendments to Part 2007 revise various definitions and define two new terms. "Excepted Benefits" are defined as those not subject to new ACA requirements, such as acci-

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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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surgical insurance benefits (but for an individual, usually \$300,000), \$300,000 in disability or long-term care insurance benefits, and \$100,000 in other types of health insurance benefits; and for annuities, \$250,000 in withdrawal and cash values.

Questions/requests for copies of the 2 DOI rulemakings: Cindy Colonius, DOI, 320 W. Washington, 4th Fl. Springfield IL 62767, 217/782-4572.

non-guaranteed contract is set up to become a guaranteed contract at a later date, the contract must clearly state when or under what circumstances the contract becomes guaranteed and what is covered by the guarantee. Consumers must also be informed that should they fail to receive contracted-for items at the time of need, they or their estates may be able to recover losses from the State's consumer protection fund. Other topics addressed in this rulemaking include explanations of pre-need contracts funded by life insurance, annuities, and trusts; statements and notifications to be provided to consumers (e.g. annual trust account statements); penalties for contract cancellation by the consumer; and refunds to consumers for contracts cancelled by the funeral home, cemetery or insurance company. Funeral homes, cemeteries, and providers of trusts and annuities for pre-need funeral arrangements are affected by this rulemaking.

☞ PRE-NEED FUNERALS

The COMPTROLLER adopted amendments to the Part titled "Illinois Funeral or Burial Funds Act" (38 Ill Adm Code 610; 37 Ill Reg 2382), effective 9/9/13, extensively revising the Comptroller's consumer protection guide for purchasers of pre-need funeral and burial contracts. The rulemaking adds a description of a pre-need sales contract (legal agreement between a consumer and insurance company, funeral home or cemetery for funeral or burial merchandise and services to be supplied in the future). It also cites examples of cemetery services and merchandise that are not governed by the Funeral or Burial Funds Act but by the Cemetery Care Act and Pre-Need Cemetery Sales Act (e.g., preparation of a plot, placement of a headstone, grave markers, mausoleums). Information that must be disclosed to consumers in a pre-need contract includes the name of the trustee or insurance provider that will fund the merchandise or services and the governmental entity that regulates the trustee or insurer. Also included is a more detailed explanation of "non-guaranteed" contracts, under which the price of funeral or burial merchandise or services will be determined at the time of need, with advance payments reducing (but not eliminating) the final cost and the remaining balance to be paid by the consumer or his or her estate at the time of need. Such contracts must be clearly labeled as "non-guaranteed". If a

☞ STATE FINANCE

The COMPTROLLER also adopted amendments to "Claim Eligible to be Offset" (74 Ill Adm Code 285; 37 Ill Reg 2393), effective 9/9/13, concerning procedures for offsetting State payments to satisfy debts (e.g., withholding past-due child support or delinquent taxes from State income tax refunds). The rulemaking lowers from \$1,000 to \$250 the minimum amount of a debt to the State, more than 1 year past due, that can be reported to the Comptroller for offset. The amendments also extend from 30 to 60 days the time limit for persons to challenge an offset after the Comptroller has given notice of the offset. Those affected by this rulemaking include persons or businesses with past-due debts to the State.

Questions/requests for copies of the 2 Comptroller rulemakings: Alissa Camp, Office of the Comptroller, 325 W. Adams St., Springfield IL 62704,

217/782-6000, e-mail: CampAJ@mail.ioc.state.il.us.

PUBLIC ASSISTANCE

The DEPARTMENT OF HUMAN SERVICES adopted emergency amendments to "Temporary Assistance for Needy Families" (89 Ill Adm Code 112; 37 Ill Reg 15388), "Refugee/Repatriate Program" (89 Ill Adm Code 115; 37 Ill Reg 15416), and "Supplemental Nutrition Assistance Program (SNAP)" (89 Ill Adm Code 121; 37 Ill Reg 15423), all effective 9/9/13 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 37 Ill Reg 15185, 15187, and 15189. The rulemakings implement Public Act 98-114, which directs DHS to disregard the value of all assets held by families applying for TANF or SNAP. The amendments remove provisions for counting assets when determining eligibility for assistance payments.

Questions/requests for copies/comments concerning the 3 proposed DHS rulemakings through 11/4/13: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted emergency amendments to "Illinois National Guard (ING) Grant Program" (23 Ill Adm Code 2730; 37 Ill Reg 15439) and "Golden Apple Scholars of Illinois Program" (23 Ill Adm Code 2764; 37 Ill Reg 15446) both effective 9/3/13 for a maximum of 150 days. Identical proposed amendments appear in this issue of the *Illinois Register* at 37 Ill Reg 15332 and 15334. The Part 2730 amendments create two tiers of eligibility for active duty National Guard members; those in the Guard for less than 10 years receive 4 academic years of benefits, those in the Guard for more than 10 years will receive up to 6 academic years of benefits. Benefits

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for an academic year will be based upon the number of credit hours in which the recipient is enrolled. Eligible recipients with less than 10 years of service may accumulate up to 120 credit hours, those with more than 10 years of service may accumulate up to 180 credits. Full program benefits may be extended for on additional term if the recipient has accumulated less than the maximum number of eligibility units but does not have enough units remain-

ing for the number of hours in which she/he is enrolled for the term. The Part 2764 amendments open the Golden Apple program to underclassmen and allow recipients an extra year to get a teaching job. Any period of forbearance or deferment issued to the recipient will not count towards the maximum 10 year repayment period. The rulemaking clarifies the conditions of forbearance and deferment listed whereby the recipient is not required to make

any payments and no interest shall accrue. The annual scholarship amount cannot exceed \$5,000 nor exceed 8 semesters/12 quarters of scholarship.

Questions/requests for copies/comments concerning the 2 proposed ISAC rulemakings above through 11/4/13: Lynn Hynes, ISAC, 1755 Lake Cook Rd, Deerfield IL 60015, 847/948-8500, ext. 2305, Fax: 847/831-8299, e-mail: lhynes@isac.org.

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dent or disability income insurance; coverage issued as a supplement to liability insurance; workers' compensation or automobile medical payment insurance; separately offered, limited scope benefits such as dental or vision coverage; long-term care insurance; independent, noncoordinated benefits covering only specific diseases or conditions, or hospital indemnity insurance paid as a fixed amount per day; and separate supplement policies, such as Medicare supplemental health insurance policies. A "Grandfathered Health Plan" is defined as any group health plan or health insurance coverage in which an individual was enrolled on 3/23/10, the date of the enactment of the federal ACA. Former permissible exclusions or limitations of coverage for grandfathered plans are maintained, such as for pre-existing conditions, mental disorders, pregnancy, etc. The minimum daily coverage amounts for basic hospital expense coverage are raised from \$100 to \$1000 per day, or \$700 per day in non-metropolitan areas.

The new Part 3125 implements Public Act 98-524, the Insurance Navigator Act (INA), and provides for certification requirements for Navigators, In-Person Counselors or Certified Application Counselors that assist individuals to enroll in health plans offered through the State's health insurance exchange (Marketplace).

A Navigator is any person or entity that receives grant funds from the US Department of Health and Human Services to perform ACA-related activities (e.g., promoting public awareness of the exchange, distributing information to consumers on their insurance options). An In-Person Counselor is a person or entity that receives grant funds from the State to perform Navigator activities. A Certified Certification Counselor is a person who provides information about insurance affordability programs and coverage options, assists individuals to apply for coverage through the Marketplace, and facilitates enrollment in health plans and insurance affordability programs. Certification for any of the above titles requires completion of an approved training course within 1 year. Providers seeking certification to offer courses must submit an application, with a fee as prescribed in the INA and detailed on the Department's website. Course materials must be retained by a provider for one year after a course is terminated or significantly altered (in which case a new certification must be obtained), and classroom rosters, course description, location and attendance hours, as well as online study, must be maintained by the provider for 3 years. Providers shall provide lists of students, class and subject matter information to DOI or upon request any education course. Three hours of

ethics training is required for any certified person seeking renewal of that status, as well as 21 other hours of continuing education. The Part details minimum aspects of a continuing education program (e.g., at least 50 minutes of instruction for each credit hour, appropriate subject matter such as insurance principles and types of coverage, applicable laws or rules, a minimum of 5 exam questions after each unit of chapter). A certification may be placed on suspension, probation, refusal to issue or renew, or a person may be levied a civil penalty for violating any insurance laws or rule, providing false or incorrect information, noncompliance with a child support obligation, defaulting on a student loan, as well as other events stated in the rulemaking. Certification examinations may be conducted by the Department and certified parties are required to provide access and records for any examination. When an application from a person with a felony conviction is received, DOI must consider factors such as the amount of time since the conduct occurred, the nature and severity of the offense, and the presence or absence of any more recent offenses in deciding whether or not to grant certification.

Amendments to Part 5420 require that a written summary of benefits and coverage in accordance with 50 Ill Adm Code 2001.10 (which elimi-

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nates the requirement for a description of coverage cover page and worksheet) be provided to each enrollee in a health care plan. A plan must have an appeals process for coverage determinations and claims, must inform enrollees of that process, and permit an enrollee to review his or her file and to receive coverage pending the outcome of the appeals process. A health plan that covers emergency services cannot require prior authorization of services or a contractual relationship with the emergency provider and cannot place more restrictions on non-contracted services than on services rendered by contracted providers. The same copayment or cost-sharing amounts must be charged for both in-network and out of network emergency services.

Finally, amendments to Part 5421 expand the definition of basic health care services to include infertility treatment, prenatal and postnatal care, maternity care and preventive services required pursuant to federal law. Termination of coverage for individuals receiving advance payments of premium tax credits shall

comply with federal rules cited in the rulemaking. The provisions of another DOI rule published last week at 37 Ill Reg 14404 concerning individual and group policies also apply to this Part.

Questions/requests for copies/comments concerning the 4 DOI rulemakings above through 11/4/13: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

AIR QUALITY

The POLLUTION CONTROL BOARD proposed amendments to "Air Quality Standards" (35 Ill Adm Code 243; 37 Ill Reg 15314) that reflect USEPA's federal National Ambient Air Quality Standards (NAAQS) adopted during the 1/1/13-6/30/13 period. The amendments set new 2012 primary 24-hour and annual average NAAQS for PM2.5; update the List of Designated Reference and Equivalent Methods; established a new federal reference method for measuring lead in total suspended particulate matter for the purposes of the lead NAAQS and make area designations

for the 2010 NAAQS for sulfur dioxide.

PCB also proposed amendments to "Definitions and General Provisions" (35 Ill Adm Code 211; 36 Ill Reg 15289) that reflect USEPA's federal NAAQS adopted during the 1/1/13-6/30/13 period that exempted 4 new compounds from the definition of volatile organic materials.

Public hearings on these proposed amendments will be held at 1pm (Part 243) and 1:13 pm (Part 211) on Oct. 31 at the James R. Thompson Center, PCB Hearing Room, 100 W. Randolph, Room 11-512, Chicago and at the Sangamo Building, PCB Hearing Room, 1021 N. Grand Ave., Springfield.

Requests for copies/comments through 11/4/13: John Therriault, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3620. Questions: Michael J. McCambridge the same address, 312/814-6924, e-mail: Michael.McCambridge@Illinois.Gov. Please reference docket R14-6 for Part 243 amendments and docket R14-7 for Part 211 amendments.

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 October 22, 2013 meeting.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"Financial Incentive for Non-Medicare State Employees Retirement System Annuitants Who Opt Out of the State Employees Group Health Plan" (80 Ill Adm Code 2106) proposed 7/26/13 (37 Ill Reg 11823)

DEPARTMENT OF VETERANS' AFFAIRS

"Survivors Compensation Act Program" (95 Ill Adm Code 120) proposed 4/5/13 (37 Ill Reg 4226)

DEPARTMENT OF PUBLIC HEALTH

"Emergency Medical Services and Trauma Center Code" (77 Ill Adm Code 515) proposed 7/19/13 (37 Ill Reg 11205)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

"Real Estate Appraiser Licensing" (68 Ill Adm Code 1455) proposed 6/14/13 (37 Ill Reg 7851)

JCAR Meeting Action

At its 9/17/13 meeting, the Joint Committee on Administrative Rules voted to object to an emergency rulemaking and issue recommendations concerning 3 proposed rulemakings.

The Committee and the affected agencies also agreed to extend the Second Notice periods an additional 45 days for the following rulemakings: Health Facilities and Services Review Board, "Narrative and Planning Policies" (77 Ill Adm Code 1100; 37 Ill Reg 3934) and "Processing, Classification Policies and Review Criteria" (77 Ill Adm Code 1110; 37 Ill Reg 3982); Department of Natural Resources, "Grant Review and Processing Fees" (17 Ill Adm Code 3000; 37 Ill Reg 2843); and Department of Public Health, "Illinois Water Well Construction Code" (77 Ill Adm Code 920; 36 Ill Reg 17308).

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JCAR objects to the third sentence in Section 152.300(g)(5) of the Department of Healthcare and Family Services' emergency rule titled "Hospital Reimbursement Changes" (89 Ill Adm Code 152; 37 Ill Reg 13589) because the Department has been unable to substantiate the existence of any emergency situation that requires adoption of this provision in less time than required for adoption through the proposed rulemaking process. (The objection concerns a provision requiring hospitals to pay 100%, instead of 50%, of financial penalties assessed by HFS for failing to meet potentially preventable re-admission targets if the federal gov-

ernment should attempt to reclaim its share of Medicaid matching funds on those penalties.)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

With respect to the DFPR rulemaking titled "The Illinois Landscape Architecture Act of 1989" (68 Ill Adm Code 1275; 37 Ill Reg 8103), JCAR recommends that the Department be more timely in proposing rules implementing statute. This rulemaking was proposed more than 3 years after PA 96-730 renewed the Act.

With respect to the DFPR rulemaking titled "Interior Design Profession Title Act" (68 Ill Adm Code 1255; 37 Ill Reg 8089), JCAR recommends that the

Department be more timely in proposing rules implementing statute. This rulemaking was proposed almost 3 years after PA 96-1334 reauthorized the Act.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

With regard to the DCFS rulemaking titled "Licensing Standards for Child Welfare Agencies" (89 Ill Adm Code 401; 37 Ill Reg 6927), JCAR recommends that, in the future, the agency reflect federal regulatory changes in a more timely manner. (The rulemaking implements a federal regulation in effect since 2006 that requires 10 hours of training for families seeking international adoptions.)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Don Harmon

Representative Lou Lang

Senator Tony Munoz

Representative David Leitch

Senator Sue Rezin

Representative Don Moffitt

Senator Dale A. Righter

Representative Tim Schmitz

Senator Ira Silverstein

Representative Andre Thapedi

**Vicki Thomas
Executive Director**