

*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

### MEDICAL PAYMENT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 3362 and 7078), effective 1/29/14, concerning payments to alternate payees, retention of records by all Medicaid providers and a new Electronic Data Interchange (EDI) process. The rulemaking, which combines two separately proposed rulemakings, clarifies that in order for an individual practitioner to designate their employer (e.g., hospital, medical school, group practice) as an alternate payee, the practitioner must have a contractual/salary arrangement that requires fees to be turned over to the employer. It also removes an existing provision allowing no more than four individual practitioners to designate the same individual practitioner as their alternate payee. The rulemaking increases from 3 to 6 years the time period for retaining business and professional records. Also, these amendments replace the current Recipient Eligibility Verification (REV) system with the EDI process. The EDI process is compliant with federal HIPAA medical privacy laws and allows participants to verify recipient eligibility, submit medical claims and check medical claim status. Requests can be made in real time mode (to which HFS responds immediately) for single individuals or claims or in batch mode for all other requests (to which HFS will respond within 24 processing hours). Existing REV vendor contracts are terminated effective 6/30/13 and REV vendors must apply to participate in the new system if they wish to continue performing eligibility verification services. The rulemaking includes criteria and procedures for prospective EDI participants. Those affected by this rulemaking include Medicaid providers and practitioners and current or prospective vendors of eligibility verification services.

### DIALYSIS TREATMENT

DHFS also adopted an amendment to "Hospital Services" (89 Ill Adm Code 148; 37 Ill Reg 9875), effective 1/29/14 providing an add-on payment of \$60 per treatment day to hospitals and freestanding chronic kidney dialysis centers for

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### ELECTIONS

The STATE BOARD OF ELECTIONS adopted a new Part by emergency rule titled "Counting of Provisional Ballots" (26 Ill Adm Code 218; 37 Ill Reg 4506), effective 1/23/14, for a maximum of 150 days. A companion proposed Part appears in this week's Illinois Register at 38 Ill Reg 4328. The rules expand the permissible counting of provisional ballots to implement Section 18A-15 of the Election Code, as amended by Public Act 98-115. The rules define key terms, such as correct precinct (the precinct in which the provisional voter is registered to vote), incorrect precinct (the precinct in which the voter cast a provisional ballot, located within either the county or municipality in which the voter is registered, but not the precinct in which he/she is registered to vote), the statutory elements entitling one to be classified as a provisional voter, and various categories of local or State office. Provisional voting procedures are detailed in the rulemaking. If a voter is attempting to vote in an incorrect precinct, the election judges are to inform the person of that fact, and direct them to the cor-

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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

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outpatient or home dialysis treatments. The add-on payment applies to dates of service on or after 7/1/13.

## **CHILD SUPPORT**

DHFS adopted amendments to "Child Support Services" (89 Ill Adm Code 160; 37 Ill Reg 12342), effective 1/27/14, providing that when DHFS issues an administrative order establishing paternity of a child, a copy of the order shall be sent to the Department of Public Health's Office of Vital Records so that DPH may add this information to the child's birth certificate. The rulemaking clarifies that administrative orders requiring payment of past-due child support only, as well as orders for payment of current child support, may be reviewed and modified upon request of either parent. The definition of "service" is expanded to include personal delivery of a notice at an individual's residence to a family member or other person residing there who is at least 13 years old. Other methods of service allowed by law but not described in rule may be used (formerly, this provision applied to counties with less than 2 million population). Finally, the rulemaking makes court-ordered payments of life insurance premiums to secure support of minor children in the event of the responsible relative's death a deductible expense when DHFS initially calculates a responsible relative's child support obligations. (A previous rulemaking applied this provision at the appeal stage but not at the initial determination; this rulemaking remedies that oversight.)

Questions/requests for copies of the 3 DHFS rulemakings above: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233, e-mail: [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov).

## **PUBLIC ASSISTANCE**

The DEPARTMENT OF HUMAN SERVICES adopted amendments to "Temporary Assistance for Needy Families" (89 Ill Adm Code 112; 37 Ill Reg 15185), "Refugee/Repatriate Program" (89 Ill Adm Code 115; 37 Ill Reg 15187), and "Supplemental Nutrition Assistance Program (SNAP)" (89 Ill Adm Code 121; 37 Ill Reg 15189), all effective 1/29/14. Companion emergency amendments were effective 9/9/13. 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 DHS rulemakings: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## **INVESTMENT BOARD**

The ILLINOIS STATE BOARD OF INVESTMENT adopted amendments to "Rules and Regulations of the Board" (74 Ill Adm Code 800; 37 Ill Reg 16310), effective 1/31/14, to make technical corrections and provide means by which members of the Board may participate in Board meetings without physical attendance. A majority of the Board physically present may allow a member to attend by means of video or audio conference for such grounds as physical illness or disability, employment business or business of the Board, or a family or other emergency. These provisions do not apply to closed meetings of the Board, the Executive Committee of the Board, or a closed meeting of any subsidiary body of the Board. If a member of the public wishes to address a member or the Board at a meeting of the Board, the individual shall provide prior written notice to the Board's General Counsel identifying the speaker and the subject matter of the address, along with a copy of any written materials to be submitted. Similar action must be taken if an individual wishes to record the proceedings of the Board. Present duties of the Recording Secretary of the Board (recording proceedings of the Board, provision of notice of meetings of the Board to all members of the Board and others concerned with the business of the Board, preparation of an order of business for each meeting of the Board) and of the State Treasurer, as official custodian of the Board (arranging to receive from all pension funds all securities, funds, assets or cash reserves in pensions funds' possession or for which commitments have been made, and compilation of reports regarding the cash balances of pension funds), are being stricken. Some present duties of the Executive Committee of the Board (resolve procedural questions between meetings of the Board, propose changes in policy or statute to the Board) are also being stricken. The policy objectives of the Emerging Manager Committee of the Board are being altered from a fixed allocation of 5% of fund assets being allocated to emerging managers, to instead state a general objective to maximize utilization of minority-owned brokers/dealers by the Board's investment managers.

Questions/requests for copies: Linsey Schoemehl, Illinois State Board of Investment, 180 N. LaSalle St., Ste. 2015, Chicago IL 60610, 312/793-1486, Fax: 312/793-2266, [Linsey.Schoemehl@Illinois.gov](mailto:Linsey.Schoemehl@Illinois.gov).

# Proposed Regulations

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rect precinct. If the voter insists on voting in the incorrect precinct the judges are then required to inform the voter that by voting in the incorrect precinct, some of the votes cast will not be counted if it is later determined the voter was not entitled to cast votes for those offices. Once it has been determined by election judges that the person is entitled to receive a provisional ballot, (because the voter's name is not on the list of registered voters for that precinct) and has completed a provisional vote affidavit, the voter shall be given a provisional ballot which will subsequently be transmitted to the election authority in accordance with the Election Code. Counting procedures for provisional ballots cast in an incorrect precinct are contained in the rulemaking. If a provisional ballot was cast in an incorrect precinct, but within the same election authority's jurisdiction, the election authority shall transmit the provisional voter's identifying information to the State Board of Elections within 2 calendar days and the election authority having jurisdiction over the provisional voter shall determine whether the voter was entitled to cast a provisional ballot (the voter must meet certain statutory criteria to do so). If it has been determined that the voter satisfied such criteria but the provisional ballot has been cast in an incorrect precinct, the election authority shall select a team of two election judges from both the Democratic and Republican parties to count the votes that are eligible to be cast on the provisional ballot, such as Statewide offices, the office of President, US Senate, and possibly representative in Congress, delegates to a national convention, State Senator or Representative, citywide or township office if it is determined by the election judges the voter would have been entitled to vote for one more of those offices. Other counting protocols are stated (e.g., no votes shall be counted for an office when the voter voted for more candidates than was allowed; if a provisional ballot does not contain any valid votes, the ballot shall be marked invalid and not be counted; an election authority must inform the provisional voter that his or her provisional vote was partially counted). Two distinct counting procedures are listed for provisional ballots cast in an incorrect precinct within a different election authority's jurisdiction: when the incorrect precinct is located in the same county as where the voter is properly registered (for instance, a voter is registered in Chicago but casts a ballot in suburban Cook County), and when the incorrect precinct is in a different county from where the voter is registered, but is located in the same municipality as the one in which the voter is registered. In the first instance, the election authority where the ballot was cast shall transmit the provisional ballot and the provisional voter's affidavit to the election authority having jurisdiction over the voter's correct precinct, with the provisional ballot being remade and votes counted in accordance with this rulemaking. Similar procedures are prescribed for cases where the voting was in a different county but in the same municipality, with strict timelines for delivery and transmittal of materials between the election authorities. Storage procedures for provisional ballots are also prescribed.

Questions/requests for copies on the proposed rulemaking through 3/31/14: Steve Sandvoss, SBEL, 2329 S. MacArthur, Springfield IL 62708, 217/782-0608.

## STATE PERSONNEL

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to "Merit and Fitness" (80 Ill Adm Code 302; 38 Ill Reg 4227) which alter longstanding State administrative leave policy. With the approval of the Director of CMS, an agency head may relieve an employee from normal duty when extraordinary circumstances and the best interest of the agency and the State will be served. Normal leave is defined as leave from regularly assigned duties of an employee. The employing agency shall determine as soon as practicable under the circumstances, whether alternative duties exist, consistent with all applicable laws, rules and collective bargaining agreements, that may be performed by the employee in lieu of administrative leave. Whether placed on administrative leave or temporarily reassigned to alternative duties, an employee must follow all directives of the employing agency, including those regarding contact with individuals and materials involved in the matter resulting in the employee being placed on administrative leave or temporarily reassigned. While on administrative leave, an employee remains on pay status and must be available to the employing agency upon request. If availability to the agency is not possible, the employee must request and utilize accrued benefit time. Secondary employment is generally discouraged while an employee is on administrative leave, and an employee is barred from engaging in secondary employment during the employee's normally scheduled work hours. Any secondary employment request made by an employee is subject to review and approval under the employing agency's policies, procedures and forms for secondary employment. When a matter is referred to an investigating body (e.g., Inspector General, State Police), the employing agency shall contact the investigating authority as soon as practicable after placing an employee on administrative leave and then determine, such as by discussion with the investigating authority, whether the employing agency should proceed to address the underlying matter independent of the investigating authority. At the minimum the employing agency shall contact the investigating agency prior to any extension of administrative leave to determine whether continued use of the leave is warranted in light of the investigation, with such contact to be reported by the employing agency to CMS. Prior to seeking an extension of administrative leave, the employing agency shall reassess whether the employing agency should proceed to address the underlying matter

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# Proposed Regulations

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independent of the investigating authority. CMS is retaining an existing rule provision which states that administrative leave shall not be used in lieu of vacation, sick leave, personal leave or any other type of leave when such other leave is appropriate. In addition to placing an employee on administrative leave, the employing agency shall separately report to CMS, in detail, its justification for placing the employee on administrative leave and why temporary reassignment to other duties, a suspension or other means of protecting the best interest of the agency and State are not available.

Questions/requests for copies/comments through 3/31/14: Mary Matheny, 720 Stratton Bdg., Springfield IL 62706, 217/557-5404. Fax: 217/558-2697, [mary.matheny@illinois.gov](mailto:mary.matheny@illinois.gov).

## DHS SCHOOLS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to "Rules of Conduct, Discipline, Suspension and Discharge Procedures" (89 Ill Adm Code 827; 38 Ill Reg 4292) revising DHS' rules of conduct and discipline and discharge procedures for students at the residential school facilities. The rulemaking also reflects changes made in DHS' school rules ensuring that language is consistent with current terminology and program practices. DHS added language requiring the Rights, Responsibilities and Procedures Handbook to be updated and distributed annually to staff, parents or guardians and students. DHS also replaced all references to "multidisciplinary staffing" to "eligibility review" for consistency with other DHS rules. Parents or guardians will be immediately notified when disciplinary action has occurred instead of only when they expressed a desire to be notified or when the incident was serious enough to warrant notification. The rulemaking also revises practice for school staff who have authority to reprimand and/or discipline students, removes special assignment of duties and restriction to classroom/dormitory from the list of disciplinary actions, adds structured study as a separate form of discipline and adds language addressing expulsion or termination of a student, including expulsion as a result of a student having a weapon and placement of that student by the local school district. DHS repealed provisions covering interim services because its residential schools are not responsible for providing interim services and also repealed a rule appendix (A). Local school districts are responsible for providing interim services and the appendix is now included in the Rights, Responsibilities and Procedures Handbook.

Questions/requests for copies/comments through 3/31/14: Tracie Drew, DHS, 100 S. Grand Ave. E., 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## RADIOACTIVE WASTE

The ILLINOIS EMERGENCY MANAGEMENT AGENCY proposed amendments to "Access to Facilities for Treatment, Storage, or Disposal of Low-Level Radioactive Waste" (LLRW) (32 Ill Adm Code 609; 38 Ill Reg 4238) that update the Part, last amended in 2000. The rulemaking revises the LLRW tracking system to reflect actual practice; includes a missing element in the electronic data transmission file structure; and adds shipping name identification numbers to the data element definition table. Affected entities include LLRW handlers.

Questions/requests for copies/comments through 3/31//14: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/524-0770, TDD 217/782-6133.

# 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. The DVA and CDB rulemakings will be considered at JCAR's February 18, 2014 meeting; the DFPR and DOT rulemakings will be considered at JCAR's March 19, 2014 meeting.

## **DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION**

"Illinois Roofing Industry Licensing Act" (68 Ill Adm Code 1460) proposed 12/13/13 (37 Ill Reg 19796)

## **DEPARTMENT OF TRANSPORTATION**

"Nonscheduled Bus Inspections" (92 Ill Adm Code 456) proposed 9/13/13 (37 Ill Reg 14785)

## **CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD**

Repeal of "Procurement Practices" (44 Ill Adm Code 8) proposed 8/2/13 (37 Ill Reg 12120)

## **DEPARTMENT OF VETERANS' AFFAIRS**

Repeal of "Rules Governing Educational Opportunities of Children of Deceased Veterans" (95 Ill Adm Code 101) proposed 10/18/13 (37 Ill Reg 16325)

Repeal of "Payment of Viet Nam Veterans Compensation Act" (95 Ill Adm Code 104) proposed 10//13 (37 Ill Reg 16339)