

*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

### ASSISTANCE APPLICATIONS

The DEPARTMENT OF HUMAN SERVICES adopted amendments to "General Administrative Provisions" (89 Ill Adm Code 10; 37 Ill Reg 16300) and "Supplemental Nutrition Assistance Program (SNAP)" (89 Ill Adm Code 121; 37 Ill Reg 16302), both effective 2/7/14, that implement a provision of the federal Patient Protection and Affordable Care Act (PL 111-148) allowing individuals to submit applications for cash, medical or SNAP assistance online, in-person, by mail or by telephone. Companion emergency rules were effective 10/1/13. The rulemakings revise the 2 Parts to allow individuals to submit applications via telephone or on-line, in addition to applying by mail or in person. (A provision of the federal Food and Nutrition Act of 2008 allowed a state option for accepting telephonic signatures on SNAP applications.)

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

### STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to "Pay Plan" (80 Ill Adm Code 310; 37 Ill Reg 16048), effective 2/4/14, that implement a collective bargaining agreement, update certain job titles and make other technical changes. The rulemaking implements an agreement with the Illinois Federation of Public Employees Local 4408, effective 7/1/12 through 6/30/15, that includes general 2% pay increases effective 7/1/13 and 7/1/14; implementation of three new substeps preceding Step 1 for new employees hired on or after 5/1/13; and longevity pay of \$75/month (for 10 or more years of continuous service) or \$100/month (for 15 or more years of service) added to the Step 8 (highest) pay rate for certain long-term employees. Other provisions of this rulemaking change or eliminate in-hire rates (pay rates below those established for a position, applicable to new hires during their first 5 years of employment) for specified trainee positions repre-

### ADULT DRIVER EDUCATION

The SECRETARY OF STATE proposed amendments to "Issuance of Licenses" (92 Ill Adm Code 1030; 38 Ill Reg 5163) and "Commercial Driver Training Schools" (92 Ill Adm Code 1060; 38 Ill Reg 5214) and proposed a new Part titled "Online Only Adult Driver Education Course Provider Certification" (92 Ill Adm Code 1066; 38 Ill Reg 5228). These rulemakings implement PA 98-167, requiring adults 18 to 20 years old who have not previously had a driver's license and who have not completed an approved driver education course to take a 6 hour course. SOS is updating driver permit requirements to allow 18 to 20 year olds to obtain a permit without being enrolled in an adult driver education course; those who want to obtain a driver's license can take the 6 hour course either in a classroom setting or online. All certified providers will be listed on SOS's website. Students who take a course from a non-certified provider will not be eligible to get a driver's license until they complete an

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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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sented by various bargaining units; replace the Fire Certification Specialist title and pay rate with Fire Certification Specialist I, II and Supervisor titles and pay rates; and remove obsolete references to a fiscal year 2012 pay freeze.

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).

## SOS RULE REPEAL

The SECRETARY OF STATE repealed emergency amendments to the Part titled "Lobbyist Registration and Reports" (2 Ill Adm Code 560; 37 Ill Reg 20784) by emergency rulemaking effective 2/7/14. The emergency rule had been effective 12/16/13 for a maximum of 150 days.

The repealed emergency rule implemented amendments to the Lobbyist

Registration Act that became effective 1/1/14. The emergency rule was repealed in response to a Joint Committee on Administrative Rules objection to SOS' unnecessary use of emergency rulemaking to implement the new policy. Identical proposed amendments appeared in the 12/27/13 *Illinois Register* at 37 Ill Reg 20628.

Questions/requests for copies: Michelle Nijm, SOS, 100 W. Randolph St., Ste. 5-400, Chicago IL 60601 312/814-7246.

# Meeting Action

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## JCAR MEETING ACTION

At its 2/18/14 meeting, the Joint Committee on Administrative Rules voted to withdraw suspensions against two emergency rules. The Committee and the Chief Procurement Officer-Capital Development Board (CPO-CDB) also agreed to extend the Second Notice period an additional 45 days for a repealer and companion new Part both titled "Chief Procurement Officer for the Capital Development Board" (44 Ill Adm Code 8; 37 Ill Reg 12120 and 12143).

## ILLINOIS GAMING BOARD

JCAR withdraws the Suspension of the IGB emergency rule titled "Video Gaming (General)" (11 Ill Adm Code 1800; 37 Ill Reg 19882) contingent upon and effective with IGB filing an emergency repeal of this emergency rule. (The emergency rule instituted a Video Gaming Exclusion List of persons barred from obtaining video gaming licenses or engaging in other activities regulated by the Video Gaming Act.)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JCAR withdraws the Suspension of Sections 147.335(a)(7)(B) and 147.355(b) of the DHFS emergency rule titled "Reimbursement for Nursing Costs for Geriatric Facilities" (89 Ill Adm Code 147; 38 Ill Reg 1205) contingent upon and effective with DHFS adopting the agreed-upon modifications to this emergency rule. (The suspended portions of the rule reduced a former \$203-\$208/patient/day add-on payment for ventilator care patients in nursing homes to \$174/patient/day.)

# Proposed Regulations

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approved course or turn 21. Once SOS is notified that the student has passed, it will send a notification that must be brought to a driver's services facility to complete the application process. Licensed commercial driver training schools can become certified to teach the 6 hour course in a classroom setting. All existing commercial driver training schools that are accredited to teach teen driving will be certified to offer adult driver education. Applicants who wish to be certified will be subject to an on-site inspection by SOS to verify they meet the standards. Only licensed instructors can teach the classroom course. The rulemaking establishes criteria for an online only course. All online providers must be certified. Requirements for online applicants include submitting to a fingerprint based background check, having a continuous surety bond of \$50,000, not be employed by SOS, maintain a customer service telephone line from 8 a.m.-5 p.m. Monday through Friday and a 24/7 email or answering service. If an applicant to teach the online course is not certified, he or she may use SOS's administrative hearing procedures to appeal. Technical and security requirements for online courses are included. Applicants for both the classroom and online must submit a copy of their course content for SOS approval. Topics covered must include instruction on traffic laws, highway signs, blind spots, sharing the road, and mental conditions. If the content significantly changes after approval, a new proposal will have to be approved. Providers must update their course content within 60 days after the effective date of any new relevant driving laws. All providers must keep records for a minimum of 3 years. Each student must complete the 6 hour course within 30 days after the start. All students must pass a final exam with a minimum score of 75 percent. The final will consist of 20 questions chosen from a bank of 40. If the student does not pass the first time, he or she may re-test. If the student does not pass the second time, he or she has failed the course.

If the student passes, the provider must provide the student's name, address, date of birth, gender, e-mail address and \$5 fee to SOS. Licensed commercial driver training schools, those wishing to be certified as online education providers, and adults wishing to take the course may be interested in these rulemakings.

Questions/requests for copies/comments on these 3 SOS rulemakings through 4/7/14: Jennifer Egizii, SOS, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

## **MEDICAID RATE REFORM**

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to "Medical Payment" (89 Ill Adm Code 140; 38 Ill Reg 4559), "Specialized Health Care Delivery Systems" (89 Ill Adm Code 146; 38 Ill Reg 4628), "Hospital Services" (89 Ill Adm Code 148; 38 Ill Reg 4640), "Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)" (89 Ill Adm Code 149; 38 Ill Reg 4932), and "Hospital Reimbursement Changes" (89 Ill Adm Code 152; 38 Ill Reg 4977). These rulemakings implement provisions of Public Act 97-689 (SMART Act) concerning Medicaid rate reform for hospitals, clinics and outpatient services. The Part 140 amendments extend eligibility for expedited payments to certain long term acute care hospitals. Maximum reimbursement rates for outpatient physical therapy are set at \$130 per visit for children's hospitals and hospitals enrolled with the Department and \$115 per visit for non-enrolled hospitals. Rates for other therapy services will be paid per quarter hour and published at the Department's website. Hospital-based clinics associated with out-of-State hospitals may participate in the Illinois medical assistance program if the parent hospital meets comparable licensing requirements in the state where it is located (currently, the parent hospital must be licensed in Illinois). Obsolete references to maternal and child health clinics are removed and new provisions for county-

operated outpatient facilities are added. An appendix defines the five rate regions (northwest, central, southern, Cook County, collar counties) that DHFS uses in various rate methodologies. The Part 146 amendments replace the current Ambulatory Procedure Listing groupings for outpatient procedures with the Enhanced Ambulatory Patient Group (EAPG) listings effective 7/1/14. Separate payment benchmarks are established for freestanding birth centers located in Cook County and those located in other counties and a cap on payment for observation services at freestanding birth centers is imposed effective 7/1/14. The Part 148 amendments implement the All Patient Refined-Diagnosis Related Grouping (APR-DRG) system for hospital billing. In cases where a hospital acquired condition (HAC) occurs during an inpatient stay, APR-DRG codes will be used to identify costs attributable to the HAC, which DHFS, in accordance with federal Medicaid regulations, will not pay. (Currently, DHFS reduces payment for all inpatient claims containing HACs by \$900.) The rulemaking also revises or replaces various types of supplemental payments to hospitals that treat higher than normal volumes of Medicaid or uninsured patients and authorizes transitional payments to replace payments that will be phased out. Amendments to Part 149 define which services will be paid via the DRG-PPS system and which services will be excluded, and establish methods for calculating payment effective 7/1/14. Finally, the Part 152 amendments require DHFS to track changes in each hospital's case mix during the first 2 years of APR-DRG and EAPG system use. If all or part of the case mix change is attributable to documentation and coding improvement rather than to an actual shift in the number or type of patients being treated, DHFS must adjust payments accordingly. Obsolete provisions for non-DRG based rates and for cost outlier adjustments are repealed. Hospitals, hospital-based clinics, and ambulatory surgical treatment centers are affected by these rulemakings.

# Proposed Regulations

Questions/requests for copies/comments on the 5 DHFS rulemakings through 4/7/14: 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).

## ☞ WATER SUPPLIES

The ENVIRONMENTAL PROTECTION AGENCY has proposed an amendment to "Permits" (35 Ill Adm Code 652; 38 Ill Reg 4554) that allows EPA to issue construction permits to a community water supply even if it is in violation of the Environmental Protection Act or regulations when the requested permit is for the construction or installation of equipment necessary to meet general public water supply requirements in 35 Ill Adm Code 601. Municipal water supplies may be affected.

Questions/requests for copies/comments through 4/7/14: Rex L. Gradeless, EPA, 1021 N. Grand Avenue East, PO Box 19276, Springfield, IL 62794-9276, 217/524-3332; email: [rex.gradeless@illinois.gov](mailto:rex.gradeless@illinois.gov).

## HAZARDOUS WASTE

The POLLUTION CONTROL BOARD has proposed amendments to "Hazardous Waste Management System: General" (35 Ill Adm Code 720; 38 Ill Reg 5016) and "Identification and Listing of Hazardous Waste" (35 Ill Adm Code 721; 38 Ill Reg 5077) that reflect USEPA actions adding conditional exclusion for the definitions of solid and hazardous waste for used solvent wipes and from regulations as hazardous waste for carbon dioxide streams injected into a Class VI carbon sequestration well.

Requests for copies/comments for the above two rulemakings through 4/17/14: 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](mailto:Michael.McCambridge@Illinois.Gov). Please reference docket R14-13.

## ☞ FOREVER GREEN PROGRAM

The DEPARTMENT OF AGRICULTURE proposed a new Part titled "Forever Green Illinois Program" (8 Ill Adm Code 241; 38 Ill Reg 4549). The new Part creates a pilot program designed to maintain and beautify trees, shrubs and other greenery on property owned by the State or by units of local government. The initial participating entities will be chosen by DOA based on criteria such as size, location, need, available funding, and other factors. Chosen entities may submit a list of problem trees (dead, diseased, pest infested or otherwise posing a hazard to public safety or infrastructure) to DOA, which will utilize Department-approved contractors to replace up to 150 problem trees with new trees or shrubs selected from an approved list. The participating entity remains responsible for repairing or replacing any infrastructure (e.g., sidewalks, pavement, curbs) displaced or damaged by the tree removal. Those affected by this rule may include small municipalities and small businesses affected by problem trees.

Questions/requests for copies/comments through 4/7/14: Susan Baatz, DOA, State Fairgrounds, P. O. Box 19281, Springfield, IL 62794-9281, 217/524-6905, fax 217/785-4505.

## ☞ INCOME TAX

The DEPARTMENT OF REVENUE proposed an amendment to "Income Tax" (86 Ill Adm Code 100; 38 Ill Reg 5148) providing guidance on the treatment of the Angel Tax Credit. The credit is equal to 25% of investment in new companies engaged in innovation. The rulemaking reflects statute and addresses years the credit may be taken, limitation on the size of the credit, how the credit is handled when the investor is a partnership or subchapter S corporation, documentation, need for a certificate authorizing the credit and provisions for recapture in the event the business has moved out of state and the investment has remained with the business less than 3

years. Some small businesses may be affected.

Questions/ requests for copies/ comments through regarding the proposed rulemaking through 4/7/14: Paul Caselton, DOR, Legal Services, 101 W. Jefferson, Springfield IL 62794, 217/782-7055.

## INSURANCE

The DEPARTMENT OF INSURANCE proposed an amendment to the Part titled "Improper Claims Practice" (50 Ill Adm Code 919; 38 Ill Reg 4999) updating the Department's Consumer Division contact information (phone number and Chicago office address).

Questions/requests for copies/comments through 4/7/14: James Rundblom (217/785-8559) or Susan Anders (217/558-0957), DOI, 320 W. Washington St., 4<sup>th</sup> Fl., Springfield IL 62767-0001.

## ☞ COAL TESTING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to the Part titled "The Coal Mining Act" (62 Ill Adm Code 140; 38 Ill Reg 5010). The amendments update procedures and standards for quality testing of coal delivered under State purchase contracts and change the testing fee to \$100 for each composited sample, \$25 for compositing of a gross sample and \$25 for bags exceeding 50 pounds. (Current testing fees start at \$50 for 2 or fewer bags per month and increase by \$15 for every 2 additional bags tested per month.) Test results shall be reported to the delivering agency by the end of the month in which the test is processed (currently, within 2 weeks after the sample is received) and analyzed samples shall be retained for 90 (currently 30) days after the results are reported. Also, obsolete references to the Department of Mines and Minerals (now DNR's Office of Mines and Minerals) are removed or updated. Those affected by this rulemaking include suppliers of coal to State facilities.

# Proposed Regulations

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Questions/requests for copies/comments through 4/7/14: Julia Lawrence, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-6899.

## **NEWBORN SCREENING**

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Newborn Metabolic Screening and Treatment Code" (77 Ill Adm Code

661; 38 Ill Reg 5142) concerning retention of testing specimens from tests that screen newborns for various diseases and conditions. DPH will retain all specimens for a minimum of 2 months. Samples that test within normal ranges may be retained up to 4 months, while those that test outside of normal ranges may be retained for up to 6 years. Abnormal specimens may be submitted to other laboratories for further testing and retained

specimens may be used within DPH for quality control purposes. All specimens must be destroyed after the maximum retention period has expired.

Questions/requests for copies/comments through 4/7/14: 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).

# 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 rulemakings will be considered at JCAR's March 19, 2014 meeting.

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

"Private Detective, Private Alarm, Private Security, Fingerprint Vendor and Locksmith Act of 2004" (68 Ill Adm Code 1240) proposed 12/27/13 (37 Ill Reg 20571)

## **DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES**

"Hospital Services" (89 Ill Adm Code 148) proposed 11/15/13 (37 Ill Reg 18011)