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Editor

Joint Committee on Administrative Rules
Illinois General Assembly

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VOL. 38

August 22, 2014

Issue 34

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.

Emergency Rules

■ CANNABIS CULTIVATION

The DEPARTMENT OF AGRICULTURE adopted emergency amendments to Compassionate Use of Medical Cannabis Pilot Program (8 IAC 1000; 38 Ill Reg 17772) effective 8/8/14 for a maximum of 150 days. The amendments specify what percentage of a cultivation center permit applicant's score will be determined by each section of an application. Required elements of an application are scored as follows: cultivation plan, 30%; security plan, 20%; product safety and labeling, 15%; facility suitability, 15%; staffing plan, 10%; and business plan, 10%. Bonus points (up to an additional 16%, beyond the 100% score for required elements) will be awarded for optional submissions such as

labor and employment practices, environmental impact statements and proof of minority, female or disabled person majority business ownership as defined in the Business Enterprise for Minorities, Females and Persons with Disabilities Act. The emergency rule also allows applicants who are awaiting local zoning decisions to submit verification of zoning approval no later than 60 days after submitting the remainder of their applications to DOA. Applicants for cultivation center permits and local zoning authorities are affected by this emergency rule.

Questions/requests for copies: Susan Baatz, DOA, State Fairgrounds, Springfield IL 62794-9281, 217/524-6905, fax 217/785-4505.

Proposed Rulemakings

VISION ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Medical Payment (89 IAC 140; 38 Ill Reg 17533) implementing a provision of Public Act 98-651. The rulemaking authorizes the Chicago Public Schools to procure one or more vendors to manufacture and supply eyeglasses for students enrolled in its schools, once HFS has obtained federal approval for the change. This provision is an exception to current rule that requires all eyeglass lenses, frames and frame parts covered by medical assistance to be obtained from the Department of Corrections optical laboratory. (Eye examinations, contact lenses, and frame repairs are supplied by

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NEW RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.

PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.

PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.

■ Designates 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: Submit mail, email or phone calls to the agency personnel listed below each summary.

RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Emergency Rules (cont.)

■ CANNABIS DISPENSARIES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted emergency amendments to Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program (68 IAC 1290; 38 Ill Reg 17798), effective 8/8/14, outlining the scoring system for evaluating applications for dispensary licenses. An identical proposed rulemaking appears in this week's *Illinois Register* at 38 Ill Reg 17531. The emergency rules establish the percentage of total score that an application will receive for each category: suitability of dispensary, 15%; business and operation plan, 20%; security plan, 20%; recordkeeping and inventory, 20%; financial disclosure, 15%; bonus, 10%.

Also, the Department clarified that for purposes of awarding points for ownership by a minority, female, veteran, or disabled person, it will use the definitions of minority, female and disabled in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act. Dispensing organization participants and investors are affected.

Questions/requests for copies/comments on the proposed rulemaking through 10/6/14: Craig Cellini, 320 W. Washington, 3rd Floor, Springfield IL 62786, 217/785-0813.

STATE RETIREES

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES repealed emergency amendments to State Employees

Group Insurance Program Retiree Premium (80 IAC 2200; 38 Ill Reg 17793) effective 8/11/14. The repealed rules increased health insurance premium contributions for State retirees, annuitants and survivors effective 7/1/14. The underlying Public Act (97-695) requiring retirees who had formerly not been required to pay health insurance premiums to begin doing so was largely ruled unconstitutional by the Illinois Supreme Court in *Kanerva vs. Weems* on 7/3/14.

Questions/requests for copies: Tyson Rothermich, CMS, 801 S. Seventh St., Fl. 6-M, Springfield IL 62703, 2137/557-0600, fax 217/557-8331, e-mail: tyson.rothermich@illinois.gov.

Proposed Rulemakings (cont.)

individual vendors.) CPS shall also insure that its chosen vendor or vendors enroll as a medical assistance provider and, if applicable, in a managed care entity serving CPS students.

Questions/requests for copies/comments through 10/6/14: Jeanette Badrov, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763, 217/782-1233, HFS.Rules@illinois.gov

New Rules

AGRICULTURAL POLLUTION

POLLUTION CONTROL BOARD adopted amendments to General Provisions (35 IAC 501; 37 Ill Reg 18974) and Permits (35 IAC 502; 37 Ill Reg 19005) and repealed Implementation Program (35 IAC 504; 37 Ill Reg 19074), all effective 8/11/14, to make Illinois' concentrated animal feeding operations (CAFO) regulations consistent with, and as stringent as, current federal CAFO regulations, and to establish technical standards as required by

federal rule. Part 504 was repealed because it became obsolete upon adoption of the Part 501 and 502 rulemakings. The amendments to Parts 501 and 502 are too detailed to describe in their entirety, and have also undergone numerous changes since 1st Notice to clarify the standards and requirements they contain. For further information contact the agency individual noted below.

Questions/requests for copies: Tim Fox, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL

60601, 312/814-6085, tim.fox@illinois.gov. Copies can also be downloaded at www.ipcb.state.il.us. Please reference docket R12-23.

STATE EMPLOYEES

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to "Pay Plan" (80 IAC 310; 38 Ill Reg 8507 and 9719), effective 8/6/14, that combine two separately proposed rulemakings and replace an emergency rule (38 Ill Reg 9080, effective 4/11/14). The rulemaking revokes bargaining unit certification for the Senior Public Service Administrator (SPSA) Option 8E (professional engineer) title, in accordance with a decision by the Illinois Labor Relations Board. This title is removed from an AFSCME bargaining unit and placed in the Merit Compensation System, with no actual change in pay. The rulemaking also implements several collective bargaining measures. An agreement between CMS and the United Food and Commercial Workers establishes a prevailing wage of \$25 per hour for barbers and beauticians hired on or after 1/1/13; for teachers of barbering or beauty culture, the established rate is \$2.50 above the prevailing wage for barbers and beauticians. Other amendments update pay rates for seasonal winter highway maintainers represented by 3 Teamsters bargaining units and remove the Senior Public Service Administrator Option 7 (Conservation Police Captain) title at Department of Natural

Resources from a list of bargaining unit positions since this title has been excluded from collective bargaining by ILRB. Finally, the title of pharmacy manager is added to those represented by an AFSCME bargaining unit for professional employees.

Questions/requests for copies: Jason Doggett, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, fax 217/524-4570, email: CMS.PayPlan@illinois.gov.

SALESTAX

DEPARTMENT OF REVENUE adopted an amendment to Retailers' Occupation Tax (86 IAC 130; 38 Ill Reg 7555) effective 8/6/14. The rulemaking implements PA 98-422 that exempts from sales tax fuel used in air carriers engaged in foreign trade or trade between the US and its possessions, provided the aircraft transports at least one person or package for hire from the city of origination to the city of final destination. The amendment requires that the air carrier certify the fuel will be used for consumption, shipment or storage in the conduct of its business as an air common carrier. Examples are also offered for clarity.

Questions/requests for copies: Debra Bogess, DOR, 101 W. Jefferson St, Springfield IL 62794, 217/ 782-2844.

DOL HEARINGS

DEPARTMENT OF LABOR adopted amendments to Rules of Procedures in Administrative Hearings (56 IAC 120; 38 Ill Reg 6520), effective 8/15/14, repealing a number of obsolete rules and making a number of substantive changes. The new rules apply to all hearings except those conducted under the Wage Payment and Collection Act. The rules will apply to the decisions and orders of administrative law judges (ALJs) and recommendations for cases that are pending on 6/1/14. Filings received after 5 p.m. will be considered filed on the next business day. The day of the act, event or default will not be considered for day counting purposes. Private delivery services may be used. E-mail is not an acceptable form of service unless specifically requested or ordered by the ALJ. The date of service is the date when the matter is deposited in the US mail or with a private delivery service and may be different from the date filed. The rulemaking establishes guidelines for service and updates the format of written documents. Hearings will only be initiated by the Director when he or she issues a Notice of Hearing. Requirements for answers are updated. Answers must be filed within 15 days after the receipt of the complaint and Notice of Hearing. The answering party must serve an answer on the Director and all other parties.

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New Rules (cont.)

Any witnesses who are summoned to a hearing will be paid the witness and mileage fee for the court in the county where the hearing takes place. Other issues addressed in this rulemaking include motions, objections, prehearing conferences, exchanges of documents between parties, subpoenas, exceptions, and deadlines for filing various actions. Changes since 1st Notice include adding a definition of “statement” that includes mechanically or electronically recorded statements as well as written statements, along with additional provisions for how statements will be used in hearings. Those who are currently involved in administrative hearings with the Department or those who may be involved in a contested hearing may be affected.

Questions/requests for copies: Jim Preckwinkle, DOL, 900 S. Spring St., Springfield, IL 62704, 217/558-1270.

SNAP BENEFITS

DEPARTMENT OF HUMAN SERVICES adopted amendments to “Supplemental Nutrition Assistance Program” (89 IAC 121; 38 Ill Reg 8241), effective 8/8/14, that implement a provision of federal Public Law 113-79. An identical emergency rulemaking effective 4/1/14 appeared in the *Illinois Register* at 38 Ill Reg 7428. The federal law no longer allows a SNAP household to qualify for the air conditioning/heating standard allowance based on the expected receipt of Low Income Home Energy Assistance Program (LIHEAP) payments in any amount. The rulemaking requires SNAP applicants/recipients to receive a LIHEAP payment of at least \$21 in the current month of application or in the immed-

ately preceding 12 months in order to qualify for the Standard Utility Allowance (SUA) based on receipt of LIHEAP. The rulemaking also updates all CFR references to reflect the most recent 2013 versions.

MEDICAL ASSISTANCE

DHS also adopted amendments to “Temporary Assistance for Needy Families” (89 IAC 112; 38 Ill Reg 7028) effective 8/8/14 updating various requirements. The amendments implement a provision of the federal Affordable Care Act that makes adults who qualify for TANF presumptively eligible for medical assistance by eliminating references to a separate starting date for medical assistance.

Questions/requests for copies of the 2 DHS rulemakings: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Don Harmon

Representative Lou Lang

Senator Tony Muñoz

Representative David Leitch

Senator Sue Rezin

Representative Don Moffitt

Senator Dale A. Righter

Representative Tim Schmitz

Senator Ira Silverstein

Representative André Thapedi

Vicki Thomas, Executive Director

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 the Committee's September 16, 2014 meeting.

SECRETARY OF STATE

Illinois Safety Responsibility Law (92 IAC 1070) proposed 6/20/14 (38 III Reg 12826)

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Illinois Credit Union Act (38 IAC 190) proposed 6/27/14 (38 III Reg 13122)

Licensing and Regulation of Pawn Brokers (38 IAC 360) proposed 5/16/14 (38 III Reg 10502)

Illinois Physical Therapy Act (68 IAC 1340) proposed 12/13/13 (37 III Reg 19767)

Illinois Certified Shorthand Reporters Act of 1984 (68 IAC 1200) proposed 5/16/14 (38 III Reg 10510)

OFFICE OF THE ATTORNEY GENERAL

Hospital Financial Assistance under the Fair Patient Billing Act (77 IAC 4500) proposed 6/20/14 (38 III Reg 12673)

DEPT OF PUBLIC HEALTH

Laboratory Service Fees (77 IAC 475) proposed 6/13/14 (38 III Reg 12007)

Control of Sexually Transmissible Infections Code (77 IAC 693) proposed 4/11/14 (38 III Reg 7785)

Plumbers Licensing Code (68 IAC 750) proposed 4/25/14 (38 III Reg 8700)

HIV/AIDS Confidentiality and Testing Code (77 IAC 697) proposed 4/11/14 (38 III Reg 7808)

DEPT OF REVENUE

Retailers' Occupation Tax (86 IAC 130) proposed 6/27/14 (38 III Reg 13161)

Use Tax (86 IAC 150) proposed 6/27/14 (38 III Reg 13186)