

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:
SEN. MAGGIE CROTTY

CO-CHAIR:
REP. ANGELO "SKIP" SAVIANO

EXECUTIVE DIRECTOR:
VICKI THOMAS



700 STRATTON BUILDING
SPRINGFIELD, ILLINOIS 62706
211/785-2254

SEN. J. BRADLEY BURZYNSKI
SEN. RANDALL HULTGREN
SEN. MATTIE HUNTER
SEN. DAN RUTHERFORD
SEN. IRA SILVERSTEIN
REP. JOHN FRITCHEY
REP. LOU LANG
REP. DAVID MILLER
REP. DONALD L. MOFFITT
REP. ROSEMARY MULLIGAN

MINUTES

September 15, 2009

Meeting Called to Order

The Joint Committee on Administrative Rules met on September 15, 2009 at 10:30 a.m. in Room 16-503 of the James R. Thompson Center in Chicago, Illinois.

Co-Chair Saviano called the meeting to order and announced that the policy of the Committee is to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. Other persons are encouraged to submit their comments in writing.

ATTENDANCE ROLL CALL

X Senator Bradley Burzynski	X Representative John Fritchey
Senator Maggie Crotty	Representative Lou Lang
X Senator Randy Hultgren	X Representative David Miller
Senator Mattie Hunter	X Representative Donald Moffitt
X Senator Dan Rutherford	X Representative Rosemary Mulligan
X Senator Ira Silverstein	X Representative Angelo "Skip" Saviano

APPROVAL OF THE MINUTES OF THE AUGUST 18, 2009 MEETING

Senator Silverstein moved, seconded by Representative Mulligan, to approve the minutes of the August 18, 2009 meeting. The motion passed unanimously.

REVIEW OF AGENCY RULEMAKINGS

Department of Human Services – Collections and Recoveries (89 Ill. Adm. Code 165; 33 Ill. Reg. 11336) (Peremptory)

Senator Hultgren moved, seconded by Representative Fritchey, that JCAR object to this use of peremptory rulemaking. The underlying federal law was enacted 6/18/08, which gave DHS more than adequate time to adopt this change through regular rulemaking. Preclusion of the use of regular rulemaking is one of the requirements for use of peremptory rulemaking under Section 5-50 of the Illinois Administrative Procedure Act. The motion passed unanimously.

Co-Chair Saviano asked if any member desired to discuss any other rulemakings. Senator Rutherford requested consideration of rulemakings of the Departments of Human Services and Insurance and Senator Burzynski requested consideration of 2 other rulemakings of the Department of Human Services.

Department of Human Services – Autism Research Fund Scientific Review Committee (59 Ill. Adm. Code 270; 33 Ill. Reg. 7054)

Senator Rutherford moved, seconded by Senator Silverstein, that JCAR object to, and prohibit filing of, the rulemaking because it lacks grant application procedures, grant issuance guidelines and standards for DHS' determination not to act on a Scientific Review Committee recommendation. DHS and the Committee will be exercising agency discretion in disbursing these funds. Section 5-20 of the IAPA requires agencies to establish by rule standards by which the agency exercises its discretionary powers. The adoption of this rulemaking without proper grant procedures would constitute a threat to the public interest and welfare in that it could lead to inequitable awarding of grant funds.

The Department was represented by Andrew Ryal, Bureau Chief of the DHS Division of Developmental Disabilities.

Senator Rutherford commented that JCAR has been taking particular note of insufficient grant rules being adopted by State agencies. JCAR has taken a firm position that grant rules should be very clear and specific because they involve the awarding of public funds. JCAR understands that this particular program involves a relatively small amount of money that was generated from an income tax check-off that is not likely to be repeated. Regardless of the amount of funds, JCAR believes that any State grants need to be awarded under rules that afford a great deal of specificity and clarity so that the public can determine how, when and why the grants were issued.

The motion passed on a unanimous rollcall vote of 9-0-0.

Department of Human Services – Temporary Assistance for Needy Families (89 Ill. Adm. Code 112; 33 Ill. Reg. 5201) and General Assistance (89 Ill. Adm. Code 114; 33 Ill. Reg. 5228)

Senator Burzynski moved, seconded by Representative Moffitt, that JCAR object to, and prohibit filing of, these rulemakings because the Department lacks specific statutory authority to expand TANF and GA in a way that will subject the State to unknown additional costs. The Department's inability to provide an estimated cost, coupled with an FY10 reduction in available TANF and GA funds, adds to a concern that DHS may not be able to absorb the costs resulting from this rulemaking without jeopardizing services to other DHS clients. The adoption of these rulemakings would constitute a threat to the public interest and welfare because the lack of funds to cover the costs of major program expansions may result in funds being rerouted from other public assistance recipients.

The motion passed on a unanimous rollcall vote of 9-0-0.

Department of Insurance – Preferred Provider Programs (50 Ill. Adm. Code 2051; 33 Ill. Reg. 1927)

Senator Rutherford moved, seconded by Representative Mulligan, that JCAR object to the rulemaking because it may have a significant negative economic impact on the affected industry.

The Department was represented by Director Michael McRaith.

Senator Rutherford stated that this Objection will allow the Department to continue discussions with the affected public and provides the potential for further modifications of the rulemaking if those discussions were to produce suggestions that the Department chooses to accept. He also asked the Director to confirm that the Department has agreed, at least, to remove Section 2051.310(a)(6)(L) from the rulemaking.

Director McRaith confirmed that this is accurate. The Department will continue to work with the affected parties in good faith and to consider any suggestion that is consistent with the Department's mission of consumer protection.

Representative Mulligan stated her personal concern that consumers continue to be protected from unreimbursed medical costs.

The motion passed unanimously.

CERTIFICATION OF NO OBJECTION

Senator Hultgren moved, seconded by Representative Fritchey, that the Committee inform the agencies to whose rulemakings the Committee did not vote an Objection, or did not remove from the No Objection List, that the Committee considered their respective rulemakings at the monthly meeting and, based upon the Agreements for modification of the rulemakings made by the agencies, no Objections will be issued. The motion passed unanimously.

AGENCY RESPONSES

Department of Financial and Professional Regulation – Medical Practice Act of 1987 (68 Ill. Adm. Code 1285; 32 Ill. Reg. 4127)

Based on the appropriateness of the Department's response, no further action was taken. Staff will monitor DFPR's efforts toward further rulemaking.

Department of Transportation – Selection of Architect-Engineer Consultant Firms (44 Ill. Adm. Code 625; 33 Ill. Reg. 11127) (Emergency)

Based on the appropriateness of the agency's response, no further action was taken.

OCTOBER MEETING DATE

Co-Chair Saviano announced that the next monthly meeting is scheduled for Wednesday, October 14, 2009, 11:00 a.m., Room 122B of the Capitol Bldg. in Springfield.

ADJOURNMENT

Representative Moffitt moved, seconded by Representative Mulligan, that the meeting be adjourned. The motion passed unanimously.

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