

The Flinn Report Illinois Regulation

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Joint Committee on Administrative Rules
Illinois General Assembly

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Issue 15

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, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Adopted Rules

■ HEALTH INSURANCE

The DEPARTMENT OF INSURANCE adopted a new Part titled Network Adequacy and Transparency (50 IAC 4540; 46 Ill Reg 5835) effective 3/28/23. This rulemaking, which has undergone extensive changes and clarifications since 1st Notice, clarifies the requirements of the Network Adequacy and Transparency Act (NATA) [215 ILCS 24] with regard to information health insurers must file when there are material changes to a provider network or when a provider contract is terminated or not renewed. For network plans issued, delivered or renewed on or after 1/1/23, the rulemaking establishes time and distance standards for each provider specialty, based on federal requirements for qualified health plans for plan year 2023. Statutory standards established under NATA apply to behavioral health

providers. The rulemaking also establishes minimum provider ratios (determined by the Department of Public Health) for each provider specialty type. Insurers with network plans must also submit to DOI copies of the notices that will be issued to providers and beneficiaries when a provider leaves the network.

Next JCAR Meeting:
Tues. April 18, 10:30 a.m.
Rm C-1, Stratton Bldg.,
Springfield

Live streaming at JCAR website

These notices must include information regarding transitional services, how to find a new preferred provider in the same specialty, in-network benefits available for out-of-network services when an appropriate preferred provider is not available, and information regarding appeals or complaints. Other provisions

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Proposed Rulemakings

■ CAREER EDUCATION

The STATE BOARD OF EDUCATION proposed amendments to the Part titled Career and Technical Education (23 IAC 256; 47 Ill Reg 5321) establishing the Green Career and Technical Education Pathway Grant Program, intended to introduce high school students to careers in developing green (environmentally conscious) industries. Entities that may apply for these grants include local educational agencies or school districts; Regional Offices of Education; SBE-recognized career centers; Indian tribes or tribal organizations; and consortiums eligible to receive career and technical education (CTE) assistance under federal law. The State Superintendent will issue Requests for Proposals when funding is available.

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ADOPTED 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.

Adopted Rules

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allow insurers to request exceptions to provider ratios or time and distance standards (some exceptions related to behavioral health providers are prohibited); clarify the NATA self-audit requirements and require insurers to report the results of these self-audits to DOI annually; specify data that must be included in a report summary; and outline procedures for determining which documents filed or exchanged under NATA are subject to disclosure, inspection and copying under the Freedom of Information Act. Changes since 1st Notice include numerous added definitions; additional details concerning time and distance travel standards and factors that DOI will take into account when a network plan cannot comply with them (e.g., no providers in a particular specialty type within the prescribed time/distance radius are licensed or accredited by the State, or are all contracted exclusively to another insurer); and provisions allowing certain network plans to combine their 2023 and 2024 issuance and renewal filings into a single document. Those affected by this rulemaking include health insurers with preferred provider or member networks and health providers enrolled in these networks.

Questions/requests for copies: Ryan Gillespie, DOI, 320 W. Washington St., 5th Floor, Springfield IL 62767, 217-558-2746.

STATE EMPLOYEE INSURANCE

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a new Part titled State Employees Group Health Insurance Program (80 IAC 2210; 46 Ill Reg 17774) effective 4/3/23, which codifies provisions of the State Employees Group Health Insurance Act of 1971 and current policies regarding State employee health insurance policies and eligibility. The Part defines the basic and optional health plans available to all State employees, retirees and annuitants (members) and their dependents and survivors. It also establishes the Total Retiree Advantage Illinois (TRAIL) Medicare supplement program for members and dependents whose primary insurance is Medicare.

Eligibility

Newly hired employees are eligible for group health insurance from the first day of service. Employees who would also qualify as dependents (e.g., a member's spouse who is also a State employee) must enroll as members and not dependents. Retirees, annuitants and survivors are eligible for TRAIL if they are Medicare-primary due to age (over 65) or disability and reside within the U.S. or its territories, unless they also have an enrolled dependent who is not eligible for Medicare. All members must apply for Medicare at least 3 months before turning 65 and accept Medicare Part A benefits if they are determined eligible for premium-free coverage. Active employees who are Medicare

eligible must enroll in Part A, but need not enroll in Part B until they retire or are no longer employed. Members who do not enroll in Medicare Part A or B when eligible are responsible for paying the portion of their health care costs that would have been covered by Medicare.

Dependents

Eligible dependents include members' spouses; civil union partners enrolled on or after 6/1/11; domestic partners continuously enrolled since before 6/1/11; children up to age 26 (including biological children, stepchildren, adopted children, children under the member's legal guardianship, and children for whom the member has been court-ordered to provide healthcare); children age 26 and older who are mentally or physically disabled; and unmarried children ages 26 to 30 who have been discharged from the U.S. Armed Forces or Reserves under any conditions other than dishonorable. The divorced spouse or ex-civil union partner of a member does not qualify as a dependent except to the extent they qualify for continuation coverage.

Enrollment

New employees have 30 days after their initial date of employment to enroll themselves and any dependents in a basic or optional health or dental plan, or to decline enrollment. If the employee takes no action during this period, the employee will be automatically

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Proposed Rulemakings

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Proposals submitted by eligible applicants must include demonstration of need evidenced by the percentage of low income students, the need among local employers for green industry occupations, and other factors; evidence that the applicant has the capacity to develop a new CTE program; and a plan for developing a green energy program of study that involves multiple stakeholders (e.g., employers, parents, community members) and includes work-based learning and opportunities for advanced coursework. Proposals will be evaluated via a point system based on need (25 points), capacity (25 points), plan quality (45 points) and cost effectiveness (5 points). Up to 5 additional points may be awarded to rural districts, applicants that partner with a green industry or proposals that integrate academic and CTE content. School districts and green energy businesses may be affected.

Questions/requests for copies/ comments through 5/30/23: Azita

Kakvand, SBE, 555 West Monroe St., Suite 900, Chicago IL 60661, 312/783-2757, rules@isbe.net

■ ZOOLOGICAL STUDIES

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to the Part titled Scientific Permits (17 IAC 520; 47 Ill Reg 5310) that update and streamline the process of obtaining DNR permits for the study of Illinois fauna, including animals, birds, fish and other aquatic life. Eligible applicants must be engaged in taking, rehabilitating or salvaging fauna for the purpose of species conservation, education, or data collection. Permits for rehabilitation of injured or disabled fauna may be granted to persons age 18 (currently, 15) or older who have experience in treating and handling wild animals and have facilities available where these animals can become capable of living in the wild. Persons who obtain DNR permits may also be required to obtain federal permits (e.g., for banding migratory birds). Scientific study permits issued

under this Part will be valid for the length of the study as specified in the project narrative or agreement, or will expire annually every Dec. 31. Permits are not transferable and only approved methods of taking or trapping fauna are permitted. Any fauna taken, salvaged or rehabilitated under a DNR scientific permit must be released to the wild or donated to a public or State scientific educational or zoological institution within 120 days. The rulemaking also clarifies the timing and content of annual reports that permittees must file and updates references to the Wildlife Code and Fish and Aquatic Life Code. Those affected by this rulemaking include persons or organizations engaged in wildlife conservation, study or rehabilitation.

Questions/requests for copies/ comments through 5/30/23: Nicole Thomas, Department of Natural Resources, One Natural Resources Way, Springfield IL 62702, 217/782-1809.

Adopted Rules

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enrolled in the basic health and dental plan with self-coverage (no dependents) only. An initial enrollment period of 60 days after the date of retirement, or 60 days after the death of the member, applies to new annuitants and survivors. A new annuitant or survivor who is Medicare eligible

when they first become eligible for coverage must enroll in the TRAIL program. After initial enrollment, annual enrollment periods will be offered to members and to Medicare-eligible TRAIL participants; coverage may be changed outside of this period only if a qualifying event (e.g., marriage, birth of a child) occurs.

Other

Other provisions in this rulemaking establish that premiums, member contributions and benefits will be determined by the Director of CMS; establish the Health Insurance Reserve Fund to cover all expenses arising from the program; and address leaves of

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Adopted Rules

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absence, termination of coverage, appeals, continuation coverage, and coordination of benefits with other insurance providers.

Questions/requests for copies: Joseph Chervin, CMS, 555 W. Monroe, 13th Floor, Chicago IL 60661.

HOMEOWNER ASSISTANCE

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted an amendment to Homeowner Assistance Fund Programs (47 IAC 302; 47 Ill Reg 58) effective 3/28/23, replacing an emergency amendment that was effective 11/2/22. The amendment increases the maximum allowable grant to homeowners under the program (which assists homeowners impacted by the COVID-19 public health emergency and in need of assistance in paying their mortgages or other housing costs) from \$30,000 to \$60,000.

Questions/requests for copies: Kathryn Finn, IHDA, 111 E. Wacker Dr., Suite 1000, Chicago IL 60601.

WAGE DISPUTES

The DEPARTMENT OF LABOR adopted amendments to the Part titled Payment and Collection of Wages or Final Compensation (56 IAC 300; 46 Ill Reg 18451) effective 3/31/23, implementing 3 Public Acts. The rulemaking reflects PA 102-50, which increases the allowable penalty

assessment for employers who owe unpaid wages from 2% to 5% of the amount owed. It also implements PA 102-1065 and 102-1076 by establishing a process by which a general construction contractor may be held liable for unpaid wages owed by their subcontractor. The rulemaking clarifies the process by which proceedings under the Illinois Wage Payment and Collection Act will be heard by an Administrative Law Judge and authorizes DOL and other parties to communicate, and/or pay fines and fees, electronically. Other provisions clarify when an employee may be entitled to reimbursement for necessary employment-related expenditures; when an employer may deduct from an employee's wages; how compensation recovered by DOL will be disbursed to the employees to whom it is owed; and when wages owed to a former employee who cannot be located can be transferred to the Office of the Treasurer as unclaimed property. Since 1st Notice, DOL has clarified factors to be considered when determining whether an employee is entitled to reimbursement and specified that the State Treasurer's E-Pay system is the appropriate means of transferring unpaid/unclaimed wages to the Treasurer. Businesses that are involved in wage disputes are affected by this rulemaking.

Questions/requests for copies: Anna Koeppel, DOL, 524 S. Second St., Suite 400, Springfield IL 62701, 217/558-1270, Anna.Koeppel@illinois.gov

SEXUAL ASSAULT

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Sexual Assault Survivors Emergency Treatment Code (77 IAC 545; 46 Ill Reg 19933) effective 3/28/23 implementing PA 102-1097, which allows federally qualified health centers (FQHCs) to provide medical forensic services to sexual assault survivors in accordance with DPH-approved treatment plans through 12/31/23. An FQHC can provide medical forensic services (which include collection of evidence, photo or other documentation of the assault, treatment for injuries, and evaluation of risk for sexually transmitted infection or pregnancy) to sexual assault survivors age 13 and older if qualified medical providers are available on-site during its regular hours of operation. The center must employ or contract with a qualified medical provider so that medical forensic services can be initiated within 90 minutes after a survivor has presented for treatment. FQHCs that have agreements with rape crisis centers must notify those centers immediately if qualified medical providers are not available, or if the facility's treatment plan is terminated. Staff that provide clinical services to sexual assault survivors, if they are not already qualified medical providers, must complete at least 2 hours of sexual assault training by 12/16/22 or within 6 months after being hired, and must complete 2 hours of continuing

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Adopted Rules

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education on sexual assault every 2 years. This training must address, among other topics, proper use of the Illinois State Police Sexual Assault Evidence Collection Kit. An FQHC must report to DPH each instance in which a survivor is transferred to a hospital or approved pediatric health care facility (if the survivor is under age 13) within 24 hours after the transfer. The rulemaking also extends to 1/1/23 (formerly, 1/1/22) the deadline for hospitals with sexual assault treatment plans to employ or contract with qualified medical providers to provide medical forensic services, and allows any health care professional, ambulance provider, laboratory or pharmacy to bill the Department of Healthcare and Family Services for services provided to a sexual assault survivor (the survivor cannot be billed for any such services). Federally qualified health centers and rape crisis centers are affected by this rulemaking.

Questions/requests for copies: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217/782-1159, dph.rules@illinois.gov

CAMPAIGN FINANCING

The STATE BOARD OF ELECTIONS adopted amendments to the Parts titled Campaign Financing (26 IAC 100; 46 Ill Reg 5464) and Practice and Procedure (26 IAC 125; 46 Ill Reg 5499), both effective 3/30/23, implementing PA 102-668 and

other recent Public Acts. The Part 100 amendments allow candidate political committees to be converted to limited activity committees under certain conditions. (A limited activity committee is a committee that has pledged to support as a candidate, or includes as an officer, a person who has been nominated to fill a position that requires confirmation by the Illinois Senate.) Additionally, the rulemaking clarifies what types of contributions a judicial candidate's committee may accept; requires newly appointed political committee treasurers to complete SBEL training campaign finance disclosure laws; and establishes procedures by which SBEL may administratively terminate a political committee that cannot be located or has not filed any reports for at least 12 months. Since 1st Notice, SBEL has updated election cycle contribution limits for various committees to reflect statutory changes; moved provisions concerning civil penalty calculations to Part 125; and removed provisions concerning out-of-State persons for which federal court actions has prevented enforcement of the relevant provisions of the Election Code. The Part 125 rulemaking allows reports, statements and documents to be filed with SBEL electronically or by fax if allowed elsewhere in SBEL's rules. Documents related to any administrative proceeding (including complaints, motions and notices) must be filed with SBEL's Division of Campaign Disclosure, which will forward them to the

Office of General Counsel within one business day. (Formerly, these documents had to be filed directly with the General Counsel's office.) Service by e-mail is permitted only with the consent of all parties involved in the proceeding. The calculation of civil penalties (fines) for a committee's failure to timely file campaign financial reports will be determined by whether the committee's total receipts, expenditures and remaining balances were each \$10,000 or less (formerly, \$5,000 or less) at the time the report was due. However, if the late filing is a quarterly report, SBEL may impose a fine even if the committee has no receipts or expenditures to disclose on that report. Fines for failure to report or late reporting of contributions or independent expenditures in excess of \$1,000 may not exceed the amount of the contribution or expenditure. A cap of \$1,000 on fines for a first-time violation involving a filing less than 10 days late is removed. Other provisions clarify the appeal process for committees disputing SBEL fines, list factors SBEL must consider in deciding whether to waive or reduce a fine, and provide for settlement of fines that a committee is unable to pay. Changes since 1st Notice clarify that teleconferences following closed or open public hearings must be conducted in accordance with the Open Meetings Act.

Questions/requests for copies of the 2 SBEL rulemakings: Marni M. Malowitz, SBEL, 69 W. Washington St., Pedway LL08, Chicago IL 60602.

Second Notices

The following rulemaking was moved to Second Notice this week by the agency listed below, commencing the JCAR review period. This rulemaking will appear in next week's *Illinois Register* and be considered at the May 16, 2023, meeting in Springfield. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning this rulemaking should be addressed to JCAR using the contact information on page 1.

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Community Association Manager Licensing and Disciplinary Act
(68 IAC 1445; 47 Ill Reg 1742) proposed 2/10/23

Joint Committee on Administrative Rules

Senator Cristina Castro

Representative Eva-Dina Delgado

Senator Bill Cunningham, *co-chair*

Representative Jackie Haas

Senator Donald DeWitte

Representative Steven Reick

Senator Dale Fowler

Representative Ryan Spain, *co-chair*

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Representative Curtis Tarver, II

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Representative Dave Vella

**Kim Schultz
Executive Director**