

The Flinn Report **Illinois Regulation**

Elaine Spencer, Editor
jcar@ilga.gov

Joint Committee on Administrative Rules
Illinois General Assembly

700 Stratton Bldg. Springfield IL 62706
217/785-2254 ilga.gov/commission/jcar

VOL. 47

May 5, 2023

Issue 18

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.

Proposed Rulemakings

ESTATE RECOVERY

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to the Part titled Rights and Responsibilities (89 IAC 102; 47 Ill Reg 6230) implementing Public Act 102-1037. The rulemaking establishes a cost-effectiveness threshold of \$25,000 for recovery claims against estates (typically, for Medicaid long-term care assistance provided to a deceased individual without a surviving spouse or minor children) for estates opened on or after 7/1/22, meaning that HFS will not make any claims against the first \$25,000 of an estate. HFS shall consider the gross assets in the estate, including, but not limited to, the net value of real estate less mortgages or liens with priority over the Department's claims.

ASSET EXEMPTIONS

HFS also proposed an amendment to Medical Assistance Programs (89 IAC 120; 47 Ill Reg 6237) increasing the amount of assets exempted from determinations of Medicaid eligibility for long-term care to \$17,500 for individuals, married couples and any dependents

Peremptory Rule, Page 3

(currently, \$2,000 for individuals, \$3,000 for an individual and one dependent, plus \$50 for each additional dependent). This change aligns the medical assistance asset exemption with the exemptions used to determine eligibility for the Department on Aging's Community Care Program and the Department of Human Services' Home Services Program.

Adopted Rules

PROFESSIONAL LICENSING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to Administrative Procedures for General Professional Regulation Under the Administrative Code (68 IAC 1130; 46 Ill Reg 20445) effective 4/20/23, implementing three Public Acts that establish new licensed healthcare professions. The rulemaking adds behavior analysts and assistant behavior analysts, music therapists, and midwives to the list of licensed healthcare professions. Other changes establish authority for DFPR to issue profession-wide variances from various Practice Act rules during an emergency/disaster declared by the Governor, or when the Secretary of DFPR determines an operational need

(cont. page 3)

(cont. page 2)

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

(cont. from page 1)

for blanket variances. (Formerly, variances were permitted only on an individual, case-by-case basis.)

■ INTERIOR DESIGN

DFPR also adopted amendments to the Part now titled Registered Interior Designers Act (68 IAC 1255; 46 Ill Reg 20453) effective 4/20/23. The rulemaking clarifies that registration as an interior designer may be obtained either by certifying required education and experience and passage of the National Council for Interior Design Qualifications (NCIDQ) exam, or by direct certification from the Council for Interior Design Qualifications (CIDO), subject to review. A new Section has been added under which DFPR may accept graduates of non-approved programs who complete and pass the required examination (the computer-based NCIDQ exam created by CIDO). The rulemaking also specifies experience requirements for graduates of accredited 4- or 5-year interior design or architecture programs (2 years' experience), 3 year programs (3 years' experience) or 2 year programs (4 years' experience) and requires all materials to be submitted within 2 years after an application is filed; otherwise a new application process must be completed. Another new Section requires 10 hours of continuing education (CE) for registration renewal, one hour of which must address professional conduct and ethics and another hour of which must

address sexual harassment prevention. All CE may be obtained either in person or online, provided that online instruction includes an examination graded by the education sponsor. Procedures for verifying CE and obtaining waivers of CE requirements are also included. Other provisions update seal and signature requirements and clarify procedures for restoring a lapsed registration. Interior designers and their employers are affected by this rulemaking.

■ CLINICAL PSYCHOLOGISTS

DFPR adopted an amendment to the Part titled Clinical Psychologist Licensing Act (68 IAC 1400; 46 Ill Reg 13564), effective 4/20/23, replacing an emergency amendment that expired 12/21/22. The rulemaking removes the former limit (18 out of 24 total credit hours) on the number of continuing education (CE) hours that can be completed outside of in-person instruction. All or any number of CE hours may now be completed online or remotely. Clinical psychologists seeking license renewal are affected.

Questions/requests for copies of the 3 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217/785-0810, fax 217/557-4451.

■ SALES TAXES

The DEPARTMENT OF REVENUE adopted amendments to Retailers' Occupation Tax (86 IAC 130; 46 Ill Reg 18945), Use

Tax (86 IAC 150; 46 Ill Reg 18967) and Electronic Filing of Returns or Other Documents (86 IAC 760; 46 Ill Reg 18986), all effective 4/18/23, implementing provisions of Public Act 102-1019 concerning electronic filing of returns required under the Retailers' Occupation Tax Act and Use Tax Act. The PA and the rulemaking require retailers who sell motor vehicles, watercraft, aircraft, and trailers that are required to be registered in Illinois to file sales and use tax returns electronically if their annual gross receipts average \$20,000 or more. (Previously, these retailers were exempt from the electronic filing requirement, which already applies to other retailers that have average annual gross receipts of \$20,000 or more.) Other changes to Part 130 expand a tax exemption for gasohol to include other blended and alternative fuels, change the due date for quarterly returns to the 20th of the month (instead of the last day of the month), and make other updates to reflect current law. Additional changes to Part 150 reflect current statute by reducing from \$200 to \$100 the minimum average monthly tax liability that requires a retailer to file quarterly returns. Those affected by these rulemakings include retailers of motor vehicles, watercraft, aircraft, and trailers that require Illinois registration.

Questions/requests for copies of the 3 DOR rulemakings: Thomas Grudichak, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

Proposed Rulemakings

(cont. from page 1)

Questions/requests for copies/ comments on the 2 HFS rulemakings through 6/20/23: Steffanie Garrett, HFS, 201 S. Grand Ave., East, 3rd Floor, Springfield IL 62763-0002, HFS.Rules@illinois.gov

DISABILITY SERVICES

The DEPARTMENT OF HUMAN SERVICES proposed amendments to the Part titled Comparable Benefits (89 IAC 567; 47 Ill Reg 6250) defining comparable benefits (to those offered by the DHS Vocational Rehabilitation Program) as those provided or paid for, entirely or partially, by other federal, State or local agencies, private health insurance or employee benefits; available to an individual when needed to ensure progress toward an employment outcome; and commensurate to service that the individual would otherwise receive from DHS. Comparable benefits do not include merit-based awards or scholarships or student loans. The rulemaking also clarifies that Vocational Rehabilitation customers seeking medical or physical restoration services must apply for Medicaid and complete the eligibility determination process unless there is clear evidence of Medicaid ineligibility, such as when a customer's income or assets exceed eligibility limits or the customer is seeking services not covered by Medicaid. (A customer may remain eligible for VR services even if they are not eligible for Medicaid.)

Peremptory Rule

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a peremptory amendment to Pay Plan (80 IAC 310; 47 Ill Reg 6347) effective 4/19/23. This peremptory amendment implements a memorandum of understanding with an AFSCME bargaining unit that changes the job titles of Behavioral Analyst Associate,

DHS also proposed amendments to the Part titled Services (89 IAC 590; 47 Ill Reg 6255) that remove restrictions on payment for summer school instruction; provide that VR customers who must travel or obtain temporary lodging in order to achieve an employment outcome will be reimbursed for mileage at the full rate (currently, 50% of the rate) established for State employee travel by the Travel Regulation Council; and clarify that customers in residence at a college or training program will be reimbursed for travel to and from another location for required training, but will not be reimbursed for travel to and from their homes. The rulemaking also clarifies what are considered "increased costs" in excess of normal living expenses, for which DHS will reimburse customers if these increased costs are attributable to participation in VR services or in an eligibility assessment. Amounts deemed normal living expenses for food, housing and clothing (which are paid by the customer) will be

Behavioral Analyst I, and Behavioral Analyst II to Behavior Analyst Associate, Behavior Analyst I and Behavior Analyst II and updates their title codes.

Questions/requests for copies: Jason R. Doggett, CMS, 504 Stratton Building, Springfield IL 62706, 217/782-4267, fax 217/524-4570, CMS.PayPlan@Illinois.gov

determined by the DHS Division of Rehabilitation Services. Reimbursement at State travel and lodging rates for increased costs that are due to the customer having to leave home to obtain services will be limited to 2 (currently 4) weeks.

Questions/requests for copies/ comments through 6/20/23: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Bldg., 3rd Floor, Springfield IL 62762, 217/785-9772.

STATE TRAVEL

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed an amendment to the Part titled Travel (80 IAC 2800; 47 Ill Reg 6219) that repeals the current list of reimbursement rates for lodging and meals in this Part and replaces it with a cross-reference to the rates listed in 80 IAC

(cont. page 4)

Proposed Rulemakings

(cont. from page 3)

3000.Appendix A. The effect of the rulemaking is to replace the State travel reimbursement rates established by the Governor's Travel Control Board for agencies under the jurisdiction of the Governor with those established by the Travel Regulation Council for all State agencies.

Questions/requests for copies/ comments through 6/20/23: Lexi Landers, Governor's Travel Control Board, 100 E. Converse St., Springfield IL 62702.

■ IEPA GRANTS

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY proposed a new Part titled General Grantmaking (EPA) (44 IAC 7070;

47 Ill Reg 6226) implementing Section 50 of the Grant Accountability and Transparency Act (GATA), which requires State agencies that make State awards to non-federal entities to adopt the federal uniform grant rules at 2 CFR 200. Small businesses, municipalities and non-profit entities receiving grants from IEPA may be affected.

Questions/requests for copies/ comments through 6/20/23: Christine Zeivel, IEPA, 1021 N. Grand Ave. East, P.O. Box 19726, Springfield IL 62794-9276, 217/782-5544, christine.zeivel@illinois.gov

■ DOL RULE WITHDRAWAL

The DEPARTMENT OF LABOR has withdrawn proposed

amendments to the Part titled Nurse Agency Licensing Act (68 IAC 690; 46 Ill Reg 19077) that were published in the 12/2/22 *Illinois Register*. These amendments would have clarified the applicability of the Act to staffing agencies that employ, refer, or assign nurses or nurse aides to health care facilities as temporary workers and would have added various requirements (e.g., worker's comp insurance, application fees, record keeping, background checks) for those agencies that are subject to the Act. Since this rulemaking was published, Public Act 102-1124 has made further changes to the Act, so DOL will file a new rulemaking incorporating these changes.

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 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 these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Consumer Installment Loan Act (38 IAC 110; 47 Ill Reg 2881) proposed 3/3/23

Sales Finance Agency Act (38 IAC 160; 47 Ill Reg 2934) proposed 3/3/23

Payday Loan Reform Act (38 IAC 210; 47 Ill Reg 2971) proposed 3/3/23

Rules for the Licensed Certified Professional Midwife Practice Act (68 IAC 1345; 46 Ill Reg 20475) proposed 12/30/22