

*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

### ■ MEDICAID MANAGED CARE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Payment (89 IAC 140; 42 Ill Reg 18242) implementing the Integrated Health Home (IHH) Program, which is replacing the Primary Care Case Management program. Each IHH will coordinate physical health, mental health and social services for medical assistance recipients through single entities (e.g., clinics) or collaborative/contractual agreements among multiple entities. To be recognized as an IHH, an entity must deliver care coordination services for physical, behavioral and social needs, including substance use disorders, and must enroll in the appropriate tier of services: Tier A for persons with both physical and mental health conditions, Tier B for

mental health conditions, and Tier C for physical health conditions. An IHH must have at least 500 members unless HFS approves a smaller number due to limited availability of providers or members in a specific area. Medical assistance recipients who qualify for enrollment in IHH may enroll as members in (or be assigned to) a Tier A IHH if they

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have at least one physical health condition and at least one mental health condition, including substance use disorders, depression, mood disorders, or attempts at self-harm or harm to others. Members with only one or more mental health conditions may enroll in Tier B and those with only physical health conditions

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## Emergency Rulemakings

### ■ SOS GRANT PROGRAMS

The SECRETARY OF STATE adopted a new Part by emergency rulemaking titled Grant Application and Award Procedures—Census Participation and Immigrant Community Assistance Grants (89 IAC 1500; 42 Ill Reg 18511) effective 9/25/18 for a maximum of 150 days. An identical proposed rulemaking appears in this week's *Illinois Register* at 42 Ill Reg 18440. The emergency and proposed rules implement two grant programs for which funds were appropriated to SOS by Public Act 100-586 (Fiscal Year 2019 State Budget): \$1.5 million for grants to encourage federal census participation and \$2.5 million for grants to assist immigrant communities in navigating government services. The rulemakings establish the

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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](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://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.

# Proposed Rulemakings

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may enroll in Tier C. Individuals who consent to IHH services must authorize sharing of medical information among the IHH partners. The rulemaking also outlines HFS' responsibilities for monitoring and coordinating IHH services, informing eligible persons of their right to select an IHH, and other tasks. Effective 1/1/19, an IHH will be paid for one qualifying care coordination service per member per month for each member who receives at least one face to face qualifying service that month. Qualifying services include comprehensive care management actions such as completing an assessment or a patient-centered care plan, linking or referring a member to other services, transitional care and follow-up, and patient/family support. IHH entities may also qualify for annual outcomes-based payments which will be determined according to quality measures set by HFS and published at least 30 days before the beginning of each calendar year (the first calendar year begins 1/1/19). An IHH that achieves bronze performance level will receive a payment equal to 10% of its total care coordination payments for that year; for silver performance level, the payment will be 25%. Payment for the "gold" performance level will be established in the third year of the program. Those affected by this rulemaking include primary medical care providers, clinics, hospitals, and mental health providers.

Questions/requests for copies/comments through 11/26/18: Christopher Gange, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov)

## ■ DISABILITY SERVICES

The DEPARTMENT OF HUMAN SERVICES proposed amendments to Appeals and Hearings (89 IAC 510; 42 Ill Reg 18287), Program Description (89 IAC 676; 42 Ill Reg 18292), Customer Rights and Responsibilities (89 IAC 677; 42 Ill Reg 18301), Determination of Need (DON) and Resulting Cost Service Maximums (SCMs) (89 IAC 679; 42 Ill Reg 18307), Eligibility (89 IAC 682; 42 Ill Reg 18312), Service Planning and Provision (89 IAC 684; 42 Ill Reg 18318) and Provider Requirements, Type Services, and Rates of Payment (89 IAC 686; 42 Ill Reg 18323). These rulemakings implement Public Act 98-935, the Home Care Consumer Bill of Rights, as well as recent federal regulations instituting a person-centered service planning process for the Home Services Program (HSP). Amendments to Part 510 allow HSP customers to seek assistance from the Department on Aging's Home Care Ombudsman Program during a grievance process. The Part 676 rulemaking adds HSP provisions for persons with brain injuries, including traumatic injuries, infections, anoxia, strokes, aneurysms, electrical injuries, malignant tumors, and toxic encephalopathy, but not

including congenital disabilities (e.g., cerebral palsy), or degenerative disorders due to aging (e.g., Alzheimer's). It also provides for use of brain injury habilitation assessments in addition to the DON assessment tool. Amendments to Part 677 add a Customer Bill of Rights and require HSP customers to acknowledge in writing that they have been informed of their rights at the time of referral, application, eligibility determination, and other events. The Customer Bill of Rights includes the right to basic safety and confidentiality of personal information; up front information regarding the cost of services (including insurance coverage and charges to the customer); the right to choose one's provider and services; and the right to seek resolution of grievances. The Part 679 rulemaking makes technical changes only. Amendments to Part 682 raise non-exempt asset limits to \$17,500 (currently \$10,000) for individual adult customers and \$35,000 (currently \$30,000) for the family of a minor customer. The Part 684 amendments require HSP service plans to reflect the customer's personal choices and include his or her personal goals and desired outcomes. The plan must be signed by the customer, the HSP counselor, and each individual provider or agency provider who will deliver services. The Part 686 rulemaking adds day habilitation services for persons with brain

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# Emergency Rules

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application process for community organizations seeking either or both types of grants, which will be awarded on a competitive basis. An SOS review committee will review all grant applications and awards will be based on demonstrated need, the organization's experience carrying out the proposed program or plan, and the projected outcome. Grant recipients must submit quarterly reports of their grant fund expenditures to SOS. Funds awarded are subject to recovery under the Grant Funds Recovery Act if the recipient fails to comply with conditions of the grant. While this grant program is not subject to the Grant Accountability and Transparency Act (which applies to State agencies under the authority of the Governor), SOS will not consider applications from any entities on the Illinois Debarred and Suspended List maintained by the Governor's Office of Management and Budget. Non-profit organizations, corporations and partnerships seeking grant funds are affected by these rulemakings.

Questions/requests for copies/comments on the proposed rulemaking through 11/26/18: Amy Williams, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, [Awilliams3@ilsos.net](mailto:Awilliams3@ilsos.net)

## TANF BENEFITS

The DEPARTMENT OF HUMAN SERVICES adopted emergency amendments to Temporary

Assistance for Needy Families (89 IAC 112; 42 Ill Reg 18495) effective 10/1/18 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 42 Ill Reg 18285. The emergency and proposed rules implement a provision of Public Act 100-587 that establishes a uniform Statewide monthly TANF payment (formerly, payment levels varied by region) and increases maximum TANF grants to at least 30% of the current Federal Poverty Level based on household size. Child-only grants shall be at least 75% of the grant amount for a household of the same size in which a caretaker relative also receives TANF. The minimum child-only monthly grant for one child is now \$228 (formerly, \$108 to \$117 depending on region); the minimum grant for a child and one caretaker relative is now \$412 (formerly \$294 to \$318).

Questions/requests for copies/comments on the proposed rulemaking through 11/26/18: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## ISAC REPEALERS

The ILLINOIS STUDENT ASSISTANCE COMMISSION repealed emergency amendments to Grant Program for Dependents of Correctional Officers (23 IAC 2731; 42 Ill Reg 18517) and Grant Program for Dependents of Police or Fire Officers (23 IAC 2732; 42 Ill Reg 18524) both effective 9/27/18.

These rulemakings repeal emergency rules adopted at 42 Ill Reg 16348 and 16355, effective 8/24/18, to implement a recent statutory expansion of eligibility for an ISAC scholarship program for spouses and children of police, fire and correctional officers killed or permanently disabled in the line of duty. However, those rules contained erroneous language that expanded the program beyond the statutory intent. ISAC will adopt replacement emergency and proposed rules at a later date.

Questions/requests for copies: Lynn Hynes, ISAC, 1755 Lake Cook Rd., Deerfield IL 60015, 847/948-8500, ext. 18032, [lynn.hynes@illinois.gov](mailto:lynn.hynes@illinois.gov)

## IHDA REPEALER

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY repealed emergency amendments to Public Information, Rulemaking and Organization (2 IAC 1975; 42 Ill Reg 18482) effective 9/28/18, in response to a JCAR Objection. The repealed emergency rule, adopted at 42 Ill Reg 12336 effective 6/14/18, revised IHDA's board meeting procedures to permit exclusion of persons who disrupt meetings and imposed restrictions on who may attend and comment at meetings.

Questions/requests for copies: Karri Kartes, IHDA, 111 E. Wacker Dr., Suite 1000, Chicago IL 60601, 312/836-5313, [kkartes@ihda.org](mailto:kkartes@ihda.org)

# Proposed Rulemakings

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injuries and requires these services to be accredited by DHS or another appropriate organization. Evaluation and certification criteria, provider standards, service requirements, billing and record requirements, reporting requirements, and compliance review provisions for day habilitation services are also included. At least 25 hours of program time must be offered per week when HSP purchases day habilitation services on a full time weekly basis. The rulemaking also clarifies the responsibilities of case managers and requires them to contact customers at least once a month, with an in-person visit every two months (currently, 3 contacts per month, one of which must be face to face, are required). Those affected by these rulemakings include HSP customers and service providers.

Questions/requests for copies/comments on the 7 DHS rulemakings through 11/26/18: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## TUITION WAIVERS

The BOARD OF HIGHER EDUCATION proposed amendments to Tuition and Fee Waiver Guidelines (23 IAC 1075; 42 Ill Reg 17980) implementing Public Act 100-824, which prohibits the Board from limiting public university tuition waivers to 3% of the university's total

available undergraduate tuition revenue. The Board is still required to gather information on tuition waivers from public universities and report this information to the General Assembly annually.

Questions/requests for copies/comments through 11/26/18: Karen Helland, BHE, 1 N. Old State Capitol Plaza, Suite 333, Springfield IL 62701-1377, 217/557-7358, fax 217/782-8548, email: [helland@ibhe.org](mailto:helland@ibhe.org)

## ■ PROCUREMENT

The CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION (CPO-HE) proposed amendments to Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement (44 IAC 4; 42 Ill Reg 17986) implementing various Public Acts. The amendments implement recent changes to the Illinois Procurement Code; the Governmental Joint Purchasing Act; the Business Enterprise for Minorities, Women, and Persons with Disabilities Act; and the Illinois Human Rights Act that impact procurement for higher education institutions. They include clarification of the structure and procurement authority oversight of the CPO-HE and various State Purchasing Officers (SPOs), exemptions from the Procurement Code and publication requirements for exempt transactions, identifying the fiduciary responsibilities of

CPO personnel, and direction to universities on reporting waste, misconduct or inefficiency. The Illinois Mathematics and Science Academy has been included in the procurement authority of the CPO-HE. The threshold for requiring competitive bidding solicitations has been increased to \$100,000 in most instances, and the procedures for non-competitive solicitations (including sole source, small purchases and emergency purchases) are clarified. Numerous other provisions concerning Business Enterprise Act and Human Rights Act compliance, bid specifications, subcontractors, procurement preferences, transparency, conflicts of interest, and the bidding process are also being updated. Those affected by this rulemaking include small businesses and non-profits seeking contracts with State institutions of higher education.

Questions/requests for copies/comments through 11/26/18: Shirley Webb, CPO-HE, 401 S. Spring St., 513 Stratton Bldg., Springfield IL 62706, 217/836-2376, [shirley.j.webb@illinois.gov](mailto:shirley.j.webb@illinois.gov)

## ■ NURSING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Nurse Practice Act (68 IAC 1300; 42 Ill Reg 18179) implementing Public Act 100-

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# Proposed Rulemakings

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513, which reauthorized the Nurse Practice Act. The PA and the rulemaking expand the scope of practice for Advanced Practice Registered Nurses (APRNs, formerly known as Advanced Practice Nurses or APNs) and allow APRNs who complete the required training and education to practice independently of a physician. The rulemaking also expands continuing education requirements for APRNs. Persons seeking or holding licensure as APRNs, and their employers, are affected by this rulemaking.

Questions/requests for copies/comments through 11/26/18: Craig Cellini, DFPR, 320 W. Washington St., 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

## HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Hospital Licensing Requirements (77 IAC 250; 42 Ill Reg 18384) implementing Public Act 99-834, which requires hearing screening for newborn infants. The rulemaking also changes references to Advanced Practice Nurses to Advanced Practice Registered Nurses (APRNs).

Questions/requests for copies/comments through 11/26/18: Erin Conley, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL 62761, 217/782-2043, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

## Peremptory Rule

### SNAP BENEFITS

The DEPARTMENT OF HUMAN SERVICES adopted peremptory amendments to Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 42 Ill Reg 18531) effective 10/1/18. The amendments implement federal Fiscal Year 2019 cost of living adjustments to the maximum gross and net income eligibility thresholds, standard deductions, and allowances for housing costs utility bills. For a family of 4, the maximum net monthly income after deductions and allowances is now \$2,092 (formerly \$2,050) and the maximum gross monthly income ranges from \$2,720 (formerly \$2,665) to \$4,183 (formerly \$4,100) depending on the applicable Federal Poverty

Level threshold (generally 130% FPL; 165% FPL for categorically eligible households without an elderly, blind or disabled person; 200% FPL for households with an elderly, blind or disabled person). Standard deductions, the housing cost deduction, and allowances for heating, air conditioning, electric and telephone bills are also increased. However, maximum monthly SNAP benefit amounts have decreased by approximately \$2 per person per household; the maximum benefit for a 4-person household is now \$642 (formerly \$649).

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

### INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to Insurance Department Consumer Complaints (50 IAC 926; 42 Ill Reg 18347), Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits (50 IAC 1412; 42 Ill Reg 18360), and Insurance Oversight Data Collection (50 IAC 2907; 42 Ill Reg 18367) and proposed repeal of the Part titled Premium Trust Fund Account (50 IAC 3113; 42 Ill Reg 18372). Amendments to Parts 926, 1412 and 2907 make technical corrections and remove

outdated or superfluous requirements for information that DOI no longer uses. Part 3113 is being repealed because it is not necessary for enforcement of the associated statute.

Questions/requests for copies/comments on the 4 DOI rulemakings through 11/26/18: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767, 217/558-0957.

# New Rules

## ■ RETIREMENT SAVINGS

The OFFICE OF THE TREASURER adopted a new Part titled Secure Choice Savings Program (74 IAC 721; 42 Ill Reg 10351) effective 9/25/18 implementing the Secure Choice Savings Program Act [820 ILCS 80] that establishes a Statewide payroll deduction Individual Retirement Account (IRA) program open to private sector employees. Participation in the program is mandatory for businesses that have been operating for at least 2 years, have more than 25 employees and do not offer their own qualified retirement plans; employees of these businesses will be automatically enrolled in the program unless they opt out. Other employers may voluntarily offer the State program to their employees, either by itself or in addition to an existing retirement plan. Persons working for employers that do not offer the State program, or who are self-employed, may enroll in the program individually, but may be required to contribute through methods other than payroll deduction. The new Part establishes the responsibilities of the Secure Choice Savings Board, the Treasurer and the account administrator with regard to administration of the program; sets out investment policy and guidelines; establishes the registration and enrollment process, program fees and reporting requirements; and includes procedures through which employees may opt out of

enrollment and employers who begin offering their own qualified retirement plans (thereby becoming exempt from mandatory participation in the State program) may terminate their participation in the program. Since 1<sup>st</sup> Notice, clarifications have been added regarding the program's investment approach, how employers facilitate its availability, and enrollment eligibility for individuals not working for an employer. Small businesses and non-profits that do not currently provide their own retirement plans may be affected by this rulemaking.

Questions/requests for copies: Chris Flynn, Office of the Treasurer, 400 W. Monroe St., Suite 401, Springfield IL 62704, 217/558-0115, fax 217/785-2777, [CFlynn@illinoistreasurer.gov](mailto:CFlynn@illinoistreasurer.gov)

## ■ DISABILITY SERVICES

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Assessment for Determining Eligibility and Rehabilitation Needs (89 IAC 553; 42 Ill Reg 9620) and Individualized Plan for Employment (IPE) (89 IAC 572; 42 Ill Reg 9627), effective 10/1/18, to align these Parts with recent changes to the federal Workforce Innovation and Opportunity Act. The Part 553 rulemaking clarifies the four categories of disability (disability, significant disability, very significant disability, most significant disability) and the criteria for each category.

“Disability” is defined as a condition that creates an impediment to employment but does not seriously limit a person's functional capacities. The criteria for other categories of disability include a need for multiple (formerly, 2 or more) vocational rehabilitation (VR) services for an extended period of time (formerly 6 months or longer). The rulemaking also replaces the term “mental retardation” with “intellectual disability”. The Part 572 rulemaking establishes competitive integrated employment (work done for the same pay and benefits and under conditions comparable to those of workers without disabilities) as the goal of an IPE; clarifies which VR services must be included in an IPE; no longer requires that a timetable for reducing anticipated levels of support be included in a plan for supported employment services; and requires all IPE's, including those for high school students receiving transition services, to be developed within 90 days after the customer is determined eligible for VR services. Those affected by this rulemaking include VR customers and their employers.

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

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## 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. These rulemakings will be considered at the Committee's November 13, 2018 meeting. Other items not published in the *Illinois 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.

### IL ENVIRONMENTAL PROTECTION AGENCY

Collection of Out-of-Service Mercury Thermostats (35 IAC 190; 42 Ill Reg 14342) proposed 8/3/18

### DEPT OF INNOVATION AND TECHNOLOGY

Mandatory Cybersecurity Training (80 IAC 4000; 42 Ill Reg 14173) proposed 7/27/18

### IL LIQUOR CONTROL COMMISSION

The Illinois Liquor Control Commission (11 IAC 100; 42 Ill Reg 7735) proposed 5/4/18

### POLLUTION CONTROL BOARD

Water Use Designations and Site-Specific Water Quality Standards (35 IAC 303; 42 Ill Reg 14468) proposed 8/10/18

### DEPT OF PUBLIC HEALTH

Food Service Sanitation Code (Repealer) (77 IAC 750; 42 Ill Reg 9077) proposed 6/8/18

Food Service Sanitation Code (New Part) (77 IAC 750; 42 Ill Reg 9136) proposed 6/8/18

### DEPT OF REVENUE

Use Tax (86 IAC 150; 42 Ill Reg 6280) proposed 4/6/18

Liquor Control Act (86 IAC 420; 42 Ill Reg 8755) proposed 6/1/18

Cigarette Tax Act (86 IAC 440; 42 Ill Reg 8777) proposed 6/1/18

Cigarette Use Tax Act (86 IAC 450; 42 Ill Reg 8789) proposed 6/1/18

### DEPT OF STATE POLICE

Testing of Breath, Blood and Urine for Alcohol, Other Drugs, and Intoxicating Compounds (20 IAC 1286; 42 Ill Reg 15020) proposed 8/10/18

### STATE UNIVERSITIES CIVIL SERVICE SYSTEM

State Universities Civil Service System (80 IAC 250; 41 Ill Reg 15224) proposed 12/26/17

## New Rules

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### BHE REPEALER

The BOARD OF HIGHER EDUCATION repealed the Part titled Engineering Grant Program (23 IAC 1025; 42 Ill Reg 11587) effective 9/26/18 because the

statute authorizing the grant program was repealed by Public Act 100-167. (The program was instituted in 1984 to provide matching grants to Illinois engineering schools for the purpose of purchasing lab equipment and computer software.)

Questions/requests for copies: Karen Helland, BHE, 1 N. Old State Capitol Plaza, Suite 333, Springfield IL 62701, 217/557-7358, fax 217/782-8548, [helland@ibhe.org](mailto:helland@ibhe.org)