

*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.*

## New Regulations

## Proposed Regulations

### CHILD SUPPORT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to "Practice in Administrative Hearings" (89 Ill Adm Code 104; 35 Ill Reg 19627), effective 6/11/12, concerning appeals of child support enforcement actions. The amendments establish a deadline of 15 days after DHFS mails a notice of determination or redetermination of past-due support for appealing the action. The 15-day appeal deadline is also applied to DHFS' determination of a share of jointly-owned funds that must be applied toward child support, and the right to appeal a determination that affects such funds is extended to joint owners. The rulemaking also establishes a 45-day period for contesting a notice of lien or levy against a jointly-owned bank account. DHFS states that the rulemaking coordinates the appeal periods specified in this Part and those specified in the existing text and amendments to 89 Ill Adm Code 160.

DHFS also adopted amendments to "Child Support Services" (89 Ill Adm Code 160; 35 Ill Reg 19403), effective 6/11/12, concerning procedures for

appealing or requesting changes in child support orders. The amendments bring DHFS administrative procedures in line with existing judicial procedures and with federal regulatory changes affecting personal property liens imposed for non-payment of child support. Deadlines for filing various appeals of DHFS determinations are modified throughout the rulemaking.

### MEDICAL ASSISTANCE

DHFS adopted an amendment to "Medical Assistance Programs" (89 Ill Adm Code 120; 35 Ill Reg 19737), effective 6/11/12, concerning the Department's Recipient Restriction Program (RRP), which limits medical assistance recipients to a single primary care provider (PCP) or primary care pharmacy if DHFS determines the recipient has received services that were not medically necessary. The rulemaking lists 5 primary provider types that may participate: PCPs, pharmacies, dentists, podiatrists, and durable medical equipment providers. An ongoing (formerly quarterly) utilization review will be conducted to identify medical assistance recipients whose usage of medical services ex-

### PROCUREMENT

The CHIEF PROCUREMENT OFFICER (CPO) FOR GENERAL SERVICES proposed a new subpart for rules titled "Chief Procurement Officer for General Services Standard Procurement" (44 Ill Adm Code 1; 36 Ill Reg 9025) concerning procurement protocols for selection of a successor private manager for the Illinois State Lottery. In 2009, Public Act 96-34 directed the Department of Revenue (and then Lottery) to contract with a private manager for lottery operations. In 2011, Public Act 97-464 directed the Chief Procurement Officer to adopt administrative rules establishing a procurement selection process for any successor private manager. Selection of a subsequent private manager for the Lottery shall be based on the competitive selection provisions of the Illinois Procurement Code and call for a Request for Qualifications (RFQ) requesting or stating the following information: the type of services required; an estimate of when and for how long the work will be required; the type of contract to be used; a date by which proposals shall be submitted; minimum information the pro-

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*NEW REGULATIONS: Rules adopted by agencies this week.*

*PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.*

*☞: Symbol designating 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/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.*

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ceeds the norm for their demographic or category of assistance. When a recipient is identified, his or her medical usage for the preceding 24 months (formerly 9 months) will be reviewed, and licensed individual practitioners or pharmacists (formerly, physicians or pharmacologists) will be among those consulted to determine whether the recipient should be restricted. A recipient restricted by the program must obtain all non-emergency medical or dental services, prescription medications, or medical equipment only through his or her designated provider unless that provider authorizes use of a different provider or is unable to supply the needed service or item. If the recipient enrolls in a full-risk managed care organization (MCO) approved by DHFS, he or she will be released from the program. (Formerly, rule did not allow RRP participants to enroll or remain enrolled in an MCO.) Since 1<sup>st</sup> Notice, HFS has specified the length of the review period for previous medical usage when a recipient is identified. Physicians, other medical providers, pharmacies, dentists, podiatrists, and medical equipment providers that accept medical assistance recipients may be affected by this rulemaking.

## GROUP THERAPY

DHFS also adopted an amendment to "Medical Payment" (89 Ill Adm Code 140; 35 Ill Reg 11126), effective 6/11/12, requiring clinics seeking payment for group psychotherapy sessions to adhere to the same limitations DHFS currently applies to physicians seeking payment for group psychotherapy services. These limitations, listed elsewhere in rule, include the following: payment is allowed for no more than one session per day and two sessions per week; groups are limited to no more than 12 patients; sessions must be conducted by a licensed physician who is serving or has completed a residency in general psychiatry; the time, duration, and primary focus of each session must be documented; and each patient's medical record

must indicate that he or she has been diagnosed with a recognized mental illness. For patients who reside in long-term care facilities, group therapy services must be coordinated with the facility and included in the patient's plan of care. Clinics that include group therapy among mental health services provided to medical assistance recipients will be affected by this rulemaking.

Questions/requests for copies of the 4 DHFS rulemakings above: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233.

## HOME MORTGAGE PROGRAM

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted a new Part titled "Homeownership Mortgage Loan Program" (47 Ill Adm Code 300; 36 Ill Reg 1097), effective 6/7/12. A companion emergency rulemaking appeared in the Illinois Register at 36 Ill Reg 1783 and was effective 1/23/12. The rulemaking establishes a new IHDA home loan program open to low- and moderate-income persons (defined as those with no more than 120% of the median family income for their metropolitan area or State wide, whichever is greater) who are not first-time home buyers or who seek to refinance existing mortgages. New or refinanced loans must be made on "qualified dwellings", either existing or newly constructed, that serve as the applicant's primary residence. Topics covered include the application process for lenders to participate in the program and the purchase and sale of mortgage loans and mortgage-backed securities by IHDA. Since 1<sup>st</sup> Notice a defined income eligibility limit has been added. Those affected by this rulemaking include mortgage lenders that desire to participate in the program.

Questions/requests for copies: Kristi Poskus, IHDA, 401 N. Michigan Ave., Suite 700, Chicago IL 60611, 312/836-7416.

## WASTE FACILITIES

The POLLUTION CONTROL BOARD adopted an amendment to "General Rules" (35 Ill Adm Code 101; 36 Ill Reg 2444), effective 6/7/12, implementing various public acts that expand the definition of "pollution control facility" to include the following sites: 1) those accepting exclusively general construction or demolition debris; 2) those used for composting food scrap, livestock waste, crop residue, uncontaminated wood waste or paper waste; 3) a facility located within a home rule unit of 120,000 to 135,000 population, that performs testing of a thermochemical conversion technology using only woody biomass; 4) facilities used to perform limited testing of a gasification conversion technology; and 5) a facility or portion of a facility used to incinerate only pharmaceuticals from residential sources that are collected and transported by law enforcement agencies. Those affected by this rulemaking include small businesses or small municipalities operating sites or facilities that meet any of the above criteria.

## ELECTRONICS RECYCLING

PCB also adopted amendments to "Proceedings Pursuant to Specific Rules or Statutory Provisions" (35 Ill Adm Code 106; 36 Ill Reg 2469), effective 6/7/12, concerning petitions by county governments or municipal joint action agencies for temporary waivers from the Electronic Products Recycling and Reuse Act's ban on disposal of covered electronic devices (CEDs) and eligible electronic devices (EEDs) in landfills. (Devices banned from landfills under the act include computer hardware and accessories such as keyboards, mice, scanners, and cables; digital music and video players; cell phones and portable digital assistants; fax machines; video game consoles; DVD and videocassette players or recorders; and cable or satellite television receivers and converter boxes.) Peti-

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posal shall contain (such as the name of the offeror and associated business information, the abilities, qualifications and experience of persons who would be assigned to provide services, a list of similar contracts performed by the offeror, a plan describing how the services will be performed, etc.); the price or other proposed form of compensation for the offeror; the factors to be used in the evaluation and selection process and their relative importance; and a plan for post-performance review to be conducted by the Lottery. Proposal submission, discussion, selection of best qualified offeror and subsequent evaluation of pricing data or other proposed compensation elements are stated. Negotiation with the best qualified vendor and the next highest ranked vendor is permitted. Elements of this negotiation process include: making certain the offeror understands the scope of the proposed work and that delivery of services is feasible, determining the offeror will make available necessary personnel and facilities within a required time, and agreeing upon compensation. The Lottery shall publish the names of its decision makers that awarded the contract and the name of the successful vendor and the value of the contract in the Illinois Procurement Bulletin. The Lottery is permitted to select advisors to assist in the preparation of the request for qualifications and the selection of a private manager (financial disclosure requirements for potential advisors are included in the rulemaking). After receipt of offerors' proposals, the Lottery will select offerors' finalists and hold a public hearing on the finalists' proposals. A Protest Review process, for contesting the private manager selection by the Lottery, states the CPO may appoint one or more Protest Review Officers, prescribes submission of protest requirements, and lists elements of a protest (name and address of the protesting party; identification of the procurement; a statement of reasons for the protest; supporting exhibits, evidence or documents; and specific relief sought). This rulemaking may affect small busi-

nesses.

Questions/requests for copies/comments through 8/6/12: Margaret van Dijk, Chief Procurement Office for General Services, 712 Stratton Building, Springfield IL 62706 217/558-2228, Margaret.vanDijk@illinois.gov.

## INSURANCE

The DEPARTMENT OF INSURANCE (DOI) proposed amendments to "Internal Security Standard and Fidelity Bonds" (50 Ill Adm Code 904; 36 Ill. Reg. 9055) revising policies insurance companies must have regarding signature of checks. A company must have a list of authorized signers by name or job classification with approved limits of authority for each authorized signer and minimum thresholds at which dual signatures are required. Policies must be available for inspection by DOI and approved by the Board of Directors for the insurance company. Verification of these requirements must be documented by the company's independent certified public accountant or the internal audit staff of the company. Electronic signatures of checks may be affixed to checks or drafts.

Questions/requests for copies/comments through 8/6/12: Susan Anders, IDOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

## MANAGED CARE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to "Managed Care Community Networks" (89 Ill Adm Code 143; 36 Ill Reg 9045) revising financial requirements for HFS-approved managed care community networks (MCCNs) serving medical assistance clients. The rulemaking allows DHFS to cap enrollment in MCCNs if the monthly total capitation amount to be paid exceeds \$10 million or if the MCCN exceeds the maximum enrollment specified in its contract with DHFS. The enrollment cap may be

removed if the MCCN receives authorization from the Department of Insurance to operate a health maintenance organization (HMO). Each MCCN must have a net worth of at least \$500,000 before entering into a contract, and must maintain minimum net worth standards specified in the rulemaking throughout the life of its contract. New solvency standards require that the greater of \$250,000, or 40% of minimum net worth, be maintained in cash or cash equivalents. The rulemaking also incorporates by reference accounting standards contained in federal rules for provider-sponsored organizations participating in the Medicare + Choice program (42 CFR 422). Medical providers and provider organizations that wish to enroll in MCCNs will be affected by this rulemaking.

Questions/requests for copies/comments through 8/6/12: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763, 217/782-1233.

## MEAT & POULTRY INSPECTION

The DEPARTMENT OF AGRICULTURE proposed amendments to rules titled "Meat and Poultry Inspection Act" (8 Ill Adm Code 125; 36 Ill Reg 9005) incorporating by reference recent USDA regulations concerning labeling of meat and poultry products. The federal regulations incorporated in this rulemaking were published in the Federal Register at 76 FR 82077, effective 12/30/11; and at 76 FR 68058, effective 1/1/14. They include updates to USDA Food Safety and Inspection Service (FSIS) regulations for reviewing and listing ingredients and sources of radiation approved for use in meat and poultry processing. Also, FSIS is amending definitions and standards for various classes of poultry to reflect current labeling practices. Meat and poultry processors, packers, and retailers will be affected by this rulemaking.

Questions/requests for copies/comments through 8/6/12: Linda Rhodes, DOA, State Fairgrounds, Spfld IL 62794-9281, 217/785-5713, fax 217/785-4505.

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tions must document that the applying entity lacks both the funding and the collection opportunities needed to comply with the act. The rulemaking covers petition contents, PCB's criteria for granting or denying waivers, action deadlines, appeal processes, and implementation of waivers. Those affected by this rulemaking include small municipalities seeking waivers and small businesses that dispose of CEDs or EEDs.

Requests for copies of the 2 PCB rulemakings above: Timothy Fox, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-6085 or download copies at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Please reference docket R12-22 for Part 101 and R12-21 for Part 106.

## INCOME TAX

The DEPARTMENT OF REVENUE adopted amendments to "Income Tax" (86 Ill Adm Code 100; 36 Ill Reg 2485), effective 6/5/12, clarifying that publishing and advertising services received in Illinois are considered to be sold in the State, and therefore taxable. The new Section provides guidance for determining where publishing services are received. Also, the

guidelines apply only to gross receipts received from these publishing services by a taxpayer who is required to supply gross receipts in computing his or her sales factor used in determining the tax liability.

Questions/requests for copies: Paul Caselton, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-7055.

## MEAT & POULTRY INSPECTION

The DEPARTMENT OF AGRICULTURE adopted peremptory amendments to rules titled "Meat and Poultry Inspection Act" (8 Ill Adm Code 125; 36 Ill Reg 9264), effective 6/6/12, incorporating by reference federal regulations adopted by USDA's Food Safety and Inspection Service effective 5/8/12. The federal rules, published in the *Federal Register* at 77 FR 26929, require official establishments (e.g., meat packing plants) to promptly notify the appropriate USDA district office when an adulterated or misbranded meat or poultry product enters commerce; to prepare and maintain written procedures for recall of meat and poultry products shipped by the establishment; and to document each reassessment of the

establishment's hazard analysis and critical control point plans after such an incident. The federal regulations take effect on 11/5/12 for establishments with 500 or more employees and on 5/8/13 for establishments with fewer than 500 employees. Businesses that process, pack and sell meat and poultry products are affected by this rulemaking.

## CORN CHECKOFF PROGRAM

DOA also adopted an amendment to "Organizational Chart, Description, Rulemaking Procedure, and Programs" (2 Ill Adm Code 700; 36 Ill Reg 9062) authorizing an increase in the Illinois Corn Marketing Program checkoff rate from 3/8 cent per bushel to 5/8 cent per bushel. (Changes in the checkoff rate are approved by a referendum vote of corn producers and implemented by the Illinois Corn Marketing Board.) Corn producers are affected by this rulemaking.

Questions/requests for copies of the 2 DOA rulemakings above: Linda Rhodes, DOA, State Fairgrounds, Springfield IL 62794-9281, 217/524-9050, fax 217/557-5887.

# 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 JCAR's July 10, 2012 meeting.

## OFFICE OF THE TREASURER

"Uniform Disposition of Unclaimed Property Act" (74 Ill Adm Code 760) proposed 4/20/12 (36 Ill Reg 6008)

## ILLINOIS GAMING BOARD

"Video Gaming (General)" (11 Ill Adm Code 1800) proposed 4/20/12 (36 Ill Reg 5935)

"Riverboat Gambling" (86 Ill Adm Code 5694) proposed 4/13/12 (36 Ill Reg 5694)

"Video Gaming (General)" (11 Ill Adm Code 1800) proposed 4/27/12 (36 Ill Reg 6197)