



Sen. Donne E. Trotter

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LRB098 04000 KTG 49573 a

1 AMENDMENT TO HOUSE BILL 1516

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1516 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. Illinois Administrative Procedure Act is  
5 amended by changing Section 5-45

6 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

7 Sec. 5-45. Emergency rulemaking.

8 (a) "Emergency" means the existence of any situation that  
9 any agency finds reasonably constitutes a threat to the public  
10 interest, safety, or welfare.

11 (b) If any agency finds that an emergency exists that  
12 requires adoption of a rule upon fewer days than is required by  
13 Section 5-40 and states in writing its reasons for that  
14 finding, the agency may adopt an emergency rule without prior  
15 notice or hearing upon filing a notice of emergency rulemaking  
16 with the Secretary of State under Section 5-70. The notice

1 shall include the text of the emergency rule and shall be  
2 published in the Illinois Register. Consent orders or other  
3 court orders adopting settlements negotiated by an agency may  
4 be adopted under this Section. Subject to applicable  
5 constitutional or statutory provisions, an emergency rule  
6 becomes effective immediately upon filing under Section 5-65 or  
7 at a stated date less than 10 days thereafter. The agency's  
8 finding and a statement of the specific reasons for the finding  
9 shall be filed with the rule. The agency shall take reasonable  
10 and appropriate measures to make emergency rules known to the  
11 persons who may be affected by them.

12 (c) An emergency rule may be effective for a period of not  
13 longer than 150 days, but the agency's authority to adopt an  
14 identical rule under Section 5-40 is not precluded. No  
15 emergency rule may be adopted more than once in any 24 month  
16 period, except that this limitation on the number of emergency  
17 rules that may be adopted in a 24 month period does not apply  
18 to (i) emergency rules that make additions to and deletions  
19 from the Drug Manual under Section 5-5.16 of the Illinois  
20 Public Aid Code or the generic drug formulary under Section  
21 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)  
22 emergency rules adopted by the Pollution Control Board before  
23 July 1, 1997 to implement portions of the Livestock Management  
24 Facilities Act, (iii) emergency rules adopted by the Illinois  
25 Department of Public Health under subsections (a) through (i)  
26 of Section 2 of the Department of Public Health Act when

1 necessary to protect the public's health, (iv) emergency rules  
2 adopted pursuant to subsection (n) of this Section, (v)  
3 emergency rules adopted pursuant to subsection (o) of this  
4 Section, or (vi) emergency rules adopted pursuant to subsection  
5 (c-5) of this Section. Two or more emergency rules having  
6 substantially the same purpose and effect shall be deemed to be  
7 a single rule for purposes of this Section.

8 (c-5) To facilitate the maintenance of the program of group  
9 health benefits provided to annuitants, survivors, and retired  
10 employees under the State Employees Group Insurance Act of  
11 1971, rules to alter the contributions to be paid by the State,  
12 annuitants, survivors, retired employees, or any combination  
13 of those entities, for that program of group health benefits,  
14 shall be adopted as emergency rules. The adoption of those  
15 rules shall be considered an emergency and necessary for the  
16 public interest, safety, and welfare.

17 (d) In order to provide for the expeditious and timely  
18 implementation of the State's fiscal year 1999 budget,  
19 emergency rules to implement any provision of Public Act 90-587  
20 or 90-588 or any other budget initiative for fiscal year 1999  
21 may be adopted in accordance with this Section by the agency  
22 charged with administering that provision or initiative,  
23 except that the 24-month limitation on the adoption of  
24 emergency rules and the provisions of Sections 5-115 and 5-125  
25 do not apply to rules adopted under this subsection (d). The  
26 adoption of emergency rules authorized by this subsection (d)

1 shall be deemed to be necessary for the public interest,  
2 safety, and welfare.

3 (e) In order to provide for the expeditious and timely  
4 implementation of the State's fiscal year 2000 budget,  
5 emergency rules to implement any provision of this amendatory  
6 Act of the 91st General Assembly or any other budget initiative  
7 for fiscal year 2000 may be adopted in accordance with this  
8 Section by the agency charged with administering that provision  
9 or initiative, except that the 24-month limitation on the  
10 adoption of emergency rules and the provisions of Sections  
11 5-115 and 5-125 do not apply to rules adopted under this  
12 subsection (e). The adoption of emergency rules authorized by  
13 this subsection (e) shall be deemed to be necessary for the  
14 public interest, safety, and welfare.

15 (f) In order to provide for the expeditious and timely  
16 implementation of the State's fiscal year 2001 budget,  
17 emergency rules to implement any provision of this amendatory  
18 Act of the 91st General Assembly or any other budget initiative  
19 for fiscal year 2001 may be adopted in accordance with this  
20 Section by the agency charged with administering that provision  
21 or initiative, except that the 24-month limitation on the  
22 adoption of emergency rules and the provisions of Sections  
23 5-115 and 5-125 do not apply to rules adopted under this  
24 subsection (f). The adoption of emergency rules authorized by  
25 this subsection (f) shall be deemed to be necessary for the  
26 public interest, safety, and welfare.

1           (g) In order to provide for the expeditious and timely  
2 implementation of the State's fiscal year 2002 budget,  
3 emergency rules to implement any provision of this amendatory  
4 Act of the 92nd General Assembly or any other budget initiative  
5 for fiscal year 2002 may be adopted in accordance with this  
6 Section by the agency charged with administering that provision  
7 or initiative, except that the 24-month limitation on the  
8 adoption of emergency rules and the provisions of Sections  
9 5-115 and 5-125 do not apply to rules adopted under this  
10 subsection (g). The adoption of emergency rules authorized by  
11 this subsection (g) shall be deemed to be necessary for the  
12 public interest, safety, and welfare.

13           (h) In order to provide for the expeditious and timely  
14 implementation of the State's fiscal year 2003 budget,  
15 emergency rules to implement any provision of this amendatory  
16 Act of the 92nd General Assembly or any other budget initiative  
17 for fiscal year 2003 may be adopted in accordance with this  
18 Section by the agency charged with administering that provision  
19 or initiative, except that the 24-month limitation on the  
20 adoption of emergency rules and the provisions of Sections  
21 5-115 and 5-125 do not apply to rules adopted under this  
22 subsection (h). The adoption of emergency rules authorized by  
23 this subsection (h) shall be deemed to be necessary for the  
24 public interest, safety, and welfare.

25           (i) In order to provide for the expeditious and timely  
26 implementation of the State's fiscal year 2004 budget,

1 emergency rules to implement any provision of this amendatory  
2 Act of the 93rd General Assembly or any other budget initiative  
3 for fiscal year 2004 may be adopted in accordance with this  
4 Section by the agency charged with administering that provision  
5 or initiative, except that the 24-month limitation on the  
6 adoption of emergency rules and the provisions of Sections  
7 5-115 and 5-125 do not apply to rules adopted under this  
8 subsection (i). The adoption of emergency rules authorized by  
9 this subsection (i) shall be deemed to be necessary for the  
10 public interest, safety, and welfare.

11 (j) In order to provide for the expeditious and timely  
12 implementation of the provisions of the State's fiscal year  
13 2005 budget as provided under the Fiscal Year 2005 Budget  
14 Implementation (Human Services) Act, emergency rules to  
15 implement any provision of the Fiscal Year 2005 Budget  
16 Implementation (Human Services) Act may be adopted in  
17 accordance with this Section by the agency charged with  
18 administering that provision, except that the 24-month  
19 limitation on the adoption of emergency rules and the  
20 provisions of Sections 5-115 and 5-125 do not apply to rules  
21 adopted under this subsection (j). The Department of Public Aid  
22 may also adopt rules under this subsection (j) necessary to  
23 administer the Illinois Public Aid Code and the Children's  
24 Health Insurance Program Act. The adoption of emergency rules  
25 authorized by this subsection (j) shall be deemed to be  
26 necessary for the public interest, safety, and welfare.

1           (k) In order to provide for the expeditious and timely  
2 implementation of the provisions of the State's fiscal year  
3 2006 budget, emergency rules to implement any provision of this  
4 amendatory Act of the 94th General Assembly or any other budget  
5 initiative for fiscal year 2006 may be adopted in accordance  
6 with this Section by the agency charged with administering that  
7 provision or initiative, except that the 24-month limitation on  
8 the adoption of emergency rules and the provisions of Sections  
9 5-115 and 5-125 do not apply to rules adopted under this  
10 subsection (k). The Department of Healthcare and Family  
11 Services may also adopt rules under this subsection (k)  
12 necessary to administer the Illinois Public Aid Code, the  
13 Senior Citizens and Disabled Persons Property Tax Relief Act,  
14 the Senior Citizens and Disabled Persons Prescription Drug  
15 Discount Program Act (now the Illinois Prescription Drug  
16 Discount Program Act), and the Children's Health Insurance  
17 Program Act. The adoption of emergency rules authorized by this  
18 subsection (k) shall be deemed to be necessary for the public  
19 interest, safety, and welfare.

20           (l) In order to provide for the expeditious and timely  
21 implementation of the provisions of the State's fiscal year  
22 2007 budget, the Department of Healthcare and Family Services  
23 may adopt emergency rules during fiscal year 2007, including  
24 rules effective July 1, 2007, in accordance with this  
25 subsection to the extent necessary to administer the  
26 Department's responsibilities with respect to amendments to

1 the State plans and Illinois waivers approved by the federal  
2 Centers for Medicare and Medicaid Services necessitated by the  
3 requirements of Title XIX and Title XXI of the federal Social  
4 Security Act. The adoption of emergency rules authorized by  
5 this subsection (l) shall be deemed to be necessary for the  
6 public interest, safety, and welfare.

7 (m) In order to provide for the expeditious and timely  
8 implementation of the provisions of the State's fiscal year  
9 2008 budget, the Department of Healthcare and Family Services  
10 may adopt emergency rules during fiscal year 2008, including  
11 rules effective July 1, 2008, in accordance with this  
12 subsection to the extent necessary to administer the  
13 Department's responsibilities with respect to amendments to  
14 the State plans and Illinois waivers approved by the federal  
15 Centers for Medicare and Medicaid Services necessitated by the  
16 requirements of Title XIX and Title XXI of the federal Social  
17 Security Act. The adoption of emergency rules authorized by  
18 this subsection (m) shall be deemed to be necessary for the  
19 public interest, safety, and welfare.

20 (n) In order to provide for the expeditious and timely  
21 implementation of the provisions of the State's fiscal year  
22 2010 budget, emergency rules to implement any provision of this  
23 amendatory Act of the 96th General Assembly or any other budget  
24 initiative authorized by the 96th General Assembly for fiscal  
25 year 2010 may be adopted in accordance with this Section by the  
26 agency charged with administering that provision or



1 initiative. The adoption of emergency rules authorized by this  
2 subsection (n) shall be deemed to be necessary for the public  
3 interest, safety, and welfare. The rulemaking authority  
4 granted in this subsection (n) shall apply only to rules  
5 promulgated during Fiscal Year 2010.

6 (o) In order to provide for the expeditious and timely  
7 implementation of the provisions of the State's fiscal year  
8 2011 budget, emergency rules to implement any provision of this  
9 amendatory Act of the 96th General Assembly or any other budget  
10 initiative authorized by the 96th General Assembly for fiscal  
11 year 2011 may be adopted in accordance with this Section by the  
12 agency charged with administering that provision or  
13 initiative. The adoption of emergency rules authorized by this  
14 subsection (o) is deemed to be necessary for the public  
15 interest, safety, and welfare. The rulemaking authority  
16 granted in this subsection (o) applies only to rules  
17 promulgated on or after the effective date of this amendatory  
18 Act of the 96th General Assembly through June 30, 2011.

19 (p) In order to provide for the expeditious and timely  
20 implementation of the provisions of Public Act 97-689,  
21 emergency rules to implement any provision of Public Act 97-689  
22 may be adopted in accordance with this subsection (p) by the  
23 agency charged with administering that provision or  
24 initiative. The 150-day limitation of the effective period of  
25 emergency rules does not apply to rules adopted under this  
26 subsection (p), and the effective period may continue through

1 June 30, 2013. The 24-month limitation on the adoption of  
2 emergency rules does not apply to rules adopted under this  
3 subsection (p). The adoption of emergency rules authorized by  
4 this subsection (p) is deemed to be necessary for the public  
5 interest, safety, and welfare.

6 (q) In order to provide for the expeditious and timely  
7 implementation of the provisions of Articles 7, 8, 9, 11, and  
8 12 of this amendatory Act of the 98th General Assembly,  
9 emergency rules to implement any provision of Articles 7, 8, 9,  
10 11, and 12 of this amendatory Act of the 98th General Assembly  
11 may be adopted in accordance with this subsection (q) by the  
12 agency charged with administering that provision or  
13 initiative. The 24-month limitation on the adoption of  
14 emergency rules does not apply to rules adopted under this  
15 subsection (q). The adoption of emergency rules authorized by  
16 this subsection (q) is deemed to be necessary for the public  
17 interest, safety, and welfare.

18 (r) In order to provide for the expeditious and timely  
19 implementation of the provisions of this amendatory Act of the  
20 98th General Assembly, emergency rules to implement any  
21 provision of this amendatory Act of the 98th General Assembly  
22 may be adopted in accordance with this subsection (r) by the  
23 agency charged with administering that provision or  
24 initiative. The 24-month limitation on the adoption of  
25 emergency rules does not apply to rules adopted under this  
26 subsection (r). The adoption of emergency rules authorized by

1 this subsection (r) is deemed to be necessary for the public  
2 interest, safety, and welfare.

3 (Source: P.A. 97-689, eff. 6-14-12; 97-695, eff. 7-1-12;  
4 98-104, eff. 7-22-13; 98-463, eff. 8-16-13.)

5 Section 10. The Illinois Public Aid Code is amended by  
6 changing Section 5-5f as follows:

7 (305 ILCS 5/5-5f)

8 Sec. 5-5f. Elimination and limitations of medical  
9 assistance services. Notwithstanding any other provision of  
10 this Code to the contrary, on and after July 1, 2012:

11 (a) The following services shall no longer be a covered  
12 service available under this Code: group psychotherapy for  
13 residents of any facility licensed under the Nursing Home Care  
14 Act or the Specialized Mental Health Rehabilitation Act of  
15 2013; and adult chiropractic services.

16 (b) The Department shall place the following limitations on  
17 services: (i) the Department shall limit adult eyeglasses to  
18 one pair every 2 years; (ii) the Department shall set an annual  
19 limit of a maximum of 20 visits for each of the following  
20 services: adult speech, hearing, and language therapy  
21 services, adult occupational therapy services, and physical  
22 therapy services; (iii) the Department shall limit adult  
23 podiatry services to individuals with diabetes; (iv) the  
24 Department shall pay for caesarean sections at the normal

1 vaginal delivery rate unless a caesarean section was medically  
2 necessary; (v) (blank) ~~the Department shall limit adult dental~~  
3 ~~services to emergencies; beginning July 1, 2013, the Department~~  
4 ~~shall ensure that the following conditions are recognized as~~  
5 ~~emergencies: (A) dental services necessary for an individual in~~  
6 ~~order for the individual to be cleared for a medical procedure,~~  
7 ~~such as a transplant; (B) extractions and dentures necessary~~  
8 ~~for a diabetic to receive proper nutrition; (C) extractions and~~  
9 ~~dentures necessary as a result of cancer treatment; and (D)~~  
10 ~~dental services necessary for the health of a pregnant woman~~  
11 ~~prior to delivery of her baby; and (vi) effective July 1, 2012,~~  
12 the Department shall place limitations and require concurrent  
13 review on every inpatient detoxification stay to prevent repeat  
14 admissions to any hospital for detoxification within 60 days of  
15 a previous inpatient detoxification stay. The Department shall  
16 convene a workgroup of hospitals, substance abuse providers,  
17 care coordination entities, managed care plans, and other  
18 stakeholders to develop recommendations for quality standards,  
19 diversion to other settings, and admission criteria for  
20 patients who need inpatient detoxification, which shall be  
21 published on the Department's website no later than September  
22 1, 2013.

23 (c) The Department shall require prior approval of the  
24 following services: wheelchair repairs costing more than \$400,  
25 coronary artery bypass graft, and bariatric surgery consistent  
26 with Medicare standards concerning patient responsibility.

1 Wheelchair repair prior approval requests shall be adjudicated  
2 within one business day of receipt of complete supporting  
3 documentation. Providers may not break wheelchair repairs into  
4 separate claims for purposes of staying under the \$400  
5 threshold for requiring prior approval. The wholesale price of  
6 manual and power wheelchairs, durable medical equipment and  
7 supplies, and complex rehabilitation technology products and  
8 services shall be defined as actual acquisition cost including  
9 all discounts.

10 (d) The Department shall establish benchmarks for  
11 hospitals to measure and align payments to reduce potentially  
12 preventable hospital readmissions, inpatient complications,  
13 and unnecessary emergency room visits. In doing so, the  
14 Department shall consider items, including, but not limited to,  
15 historic and current acuity of care and historic and current  
16 trends in readmission. The Department shall publish  
17 provider-specific historical readmission data and anticipated  
18 potentially preventable targets 60 days prior to the start of  
19 the program. In the instance of readmissions, the Department  
20 shall adopt policies and rates of reimbursement for services  
21 and other payments provided under this Code to ensure that, by  
22 June 30, 2013, expenditures to hospitals are reduced by, at a  
23 minimum, \$40,000,000.

24 (e) The Department shall establish utilization controls  
25 for the hospice program such that it shall not pay for other  
26 care services when an individual is in hospice.

1 (f) For home health services, the Department shall require  
2 Medicare certification of providers participating in the  
3 program and implement the Medicare face-to-face encounter  
4 rule. The Department shall require providers to implement  
5 auditable electronic service verification based on global  
6 positioning systems or other cost-effective technology.

7 (g) For the Home Services Program operated by the  
8 Department of Human Services and the Community Care Program  
9 operated by the Department on Aging, the Department of Human  
10 Services, in cooperation with the Department on Aging, shall  
11 implement an electronic service verification based on global  
12 positioning systems or other cost-effective technology.

13 (h) Effective with inpatient hospital admissions on or  
14 after July 1, 2012, the Department shall reduce the payment for  
15 a claim that indicates the occurrence of a provider-preventable  
16 condition during the admission as specified by the Department  
17 in rules. The Department shall not pay for services related to  
18 an other provider-preventable condition.

19 As used in this subsection (h):

20 "Provider-preventable condition" means a health care  
21 acquired condition as defined under the federal Medicaid  
22 regulation found at 42 CFR 447.26 or an other  
23 provider-preventable condition.

24 "Other provider-preventable condition" means a wrong  
25 surgical or other invasive procedure performed on a patient, a  
26 surgical or other invasive procedure performed on the wrong

1 body part, or a surgical procedure or other invasive procedure  
2 performed on the wrong patient.

3 (i) The Department shall implement cost savings  
4 initiatives for advanced imaging services, cardiac imaging  
5 services, pain management services, and back surgery. Such  
6 initiatives shall be designed to achieve annual costs savings.

7 (j) The Department shall ensure that beneficiaries with a  
8 diagnosis of epilepsy or seizure disorder in Department records  
9 will not require prior approval for anticonvulsants.

10 (Source: P.A. 97-689, eff. 6-14-12; 98-104, Article 6, Section  
11 6-240, eff. 7-22-13; 98-104, Article 9, Section 9-5, eff.  
12 7-22-13; revised 9-19-13.)

13 Section 99. Effective date. This Act takes effect on  
14 January 1, 2014.".