

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.

Emergency Rules

■ LOCAL CURE PROGRAM

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted emergency amendments to Local Coronavirus Urgent Remediation Emergency (or Local CURE) Support Program (14 IAC 700; 44 Ill Reg 17753) effective 10/26/20, amending a Part adopted by emergency rulemaking effective 7/17/20 for the remainder of its 150-day term. The emergency amendments clarify various aspects of the CURE Program, including the definitions of administrative expenses, administrative compliance expenses and incurred expenses for purposes of economic support payments; defining public health and public safety employees (whose employment expenses may be eligible for reimbursement through CURE); adding COVID testing and contract tracing, food programs, nursing home

COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

assistance, housing support, personal protective equipment, and expenses associated with issuance of tax anticipation notes to the list of costs eligible for reimbursement; and clarifying that certain administrative compliance expenses incurred prior to 2/28/21 may be reimbursable if they are related to eligible expenses

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Proposed Rulemakings

■ PRESCRIPTION DRUGS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to the Part titled Electronic Prescription Monitoring Program (77 IAC 2080; 44 Ill Reg 17587) implementing Public Act 100-564, which requires all electronic health record (EHR) systems in Illinois to integrate with the Prescription Monitoring Program (PMP) via a secure, one-to-one connection. (The PMP records and monitors all prescriptions for controlled substances issued to persons other than hospital inpatients.) Information and procedures required for EHR systems to connect to the PMP are outlined. Pharmacies and medical practitioners with prescribing authority will be affected.

Questions/requests for copies/comments through 12/21/20:

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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

■ UNEMPLOYMENT CLAIMS

The DEPARTMENT OF EMPLOYMENT SECURITY adopted amendments to the Parts titled Claims, Adjudication, Appeals and Hearings (56 IAC 2720; 44 Ill Reg 12052), Administrative Hearings and Appeals (56 IAC 2725; 44 Ill Reg 12055) and Academic Personnel (56 IAC 2915; 44 Ill Reg 12058) all effective 10/23/20, replacing emergency amendments that were effective 7/10/20. The amendments to Part 2720 and 2915 implement recent amendments to the Unemployment Insurance Act that allow non-professional employees of educational institutions to claim benefits for periods of unemployment between or within terms for weeks beginning 3/15/20 and ending 1/2/21. The Part 2720 amendments require educational

institutions or service agencies that are contesting unemployment claims filed by academic personnel for weeks beginning 3/15/20 and ending 1/2/21 to file a prescribed form alleging that the individuals named were employed in an instructional, research, or principal administrative capacity (which would disqualify them from claiming unemployment between terms/years or during temporary interruptions in the academic year) during the 2019-20 academic year; that they were employed as of 3/1/20; and that they have a contract to work, or reasonable assurance that they will continue working, for the same employer in the 2020-21 academic year. Amendments to Part 2915 clarify when academic employees' services are considered to be performed in an instructional, research or principal administrative capacity (e.g., when

they are employed as teachers, substitute teachers, principals, guidance counselors, or coaches for 50% or more of the academic year or term) and when they are not (e.g., when employed as teacher's aides, clerical employees, custodians, or librarians for 50% or more of the year/term). The amendment to Part 2725 clarifies when an employer may file an application for revision of the amount due for benefits paid for weeks beginning 3/15/20 and ending 1/2/21. Employees of elementary and secondary schools, colleges and universities who have recently filed for unemployment benefits may be affected by these rulemakings.

DES also adopted amendments to the Part titled Claimant's Availability for Work, Ability to

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Emergency Rules

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incurred prior to 12/30/20 (the end of the eligibility period). The amendments also specify that the first \$15 million in CURE funds forfeited or not claimed by municipalities and counties will be reallocated to the Economic Support Payments Grants Program (through which local governments can directly assist businesses impacted by the COVID-19 public health emergency). Local governments may be affected by this emergency amendment.

Questions/requests for copies: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, 217/557-1820, jolene.clarke@illinois.gov

SCHOOLS

The STATE BOARD OF EDUCATION adopted an emergency amendment to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 44 Ill Reg 17816) effective 10/23/20, amending an earlier emergency rule that was effective 9/29/20 (44 Ill Reg 16860) for the remainder of its 150-day term. The emergency

amendment clarifies that unlicensed personnel may supervise classroom activities during a declared public health emergency if teachers are instructing from a remote location while students are physically present at school, and only under the direction of the remote teacher and of licensed personnel present in the same building. School districts conducting remote teaching may be affected by this emergency amendment.

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Proposed Rulemakings

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Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

COMMUNITY COLLEGES

The ILLINOIS COMMUNITY COLLEGE BOARD proposed amendments to the Part titled Administration of the Illinois Public Community College Act (23 IAC 1501; 44 Ill Reg 17524) limiting approval of statewide and regional curricula to 3 years at a time (currently, approval continues indefinitely) and including a pandemic among the emergencies that may require a community college to shorten its term.

Questions/requests for copies/ comments through 12/21/20: Matt Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217/785-7411, fax 217/524-4981, matt.berry@illinois.gov

■ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed an amendment to Video Gaming (General) (11 IAC 1800; 44 Ill Reg 17542) that will, upon adoption, replace an emergency amendment effective 6/15/20 at 44 Ill Reg 11104. The rulemaking authorizes e-mail service of documents by and upon license applicants, licensees, interested persons, and IGB for matters such as petitions, IGB Administrator recommendations, and final Board

orders. Video gaming license holders and applicants are affected by this rulemaking.

Questions/requests for copies/ comments through 12/21/20: Agostino Lorenzini, IGB, 160 N. LaSalle St., Chicago IL 60601, IGB.RuleComments@igb.illinois.gov

■ MEDICAL TRANSPORTATION

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Medical Payment (89 IAC 140; 44 Ill Reg 17559) adding licensed practical nurses and licensed clinical social workers to the list of medical

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Emergency Rules

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Questions/requests for copies: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510.

■ CHILD LABOR

The DEPARTMENT OF LABOR adopted an emergency amendment to Illinois Child Labor Law (56 IAC 250; 44 Ill Reg 17783) effective 10/26/20 for a maximum of 150 days. The emergency rulemaking permits school officials who issue employment certificates to minors under age 16 to conduct interviews, verify the identity of the applicant and his/her parent or guardian, and submit required

documentation to DOL remotely via telephone/video conferencing and secure electronic transmission. Minors applying for employment and certificate issuing school officials are affected by this emergency rule.

Questions/requests for copies: Jason Keller, DOL, 900 S. Spring St., Springfield IL 62704, 217/782-1706, jason.keller@illinois.gov

DPH EMERGENCY REPEAL

The DEPARTMENT OF PUBLIC HEALTH repealed, by emergency rulemaking, emergency amendments to Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 44 Ill Reg

17790) effective 10/23/20. This emergency rulemaking repeals previous emergency amendments effective 5/28/20 (44 Ill Reg 10217) and 7/14/20 (44 Ill Reg 12931) instituting requirements for long term care facility infection control policies and procedures. DPH states that the repealed amendments will be replaced with new emergency rules, also effective 10/23/20, that will appear in next week's *Illinois Register*.

Questions/requests for copies: Elizabeth Paton, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

Adopted Rules

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Work and Active Search for Work (56 IAC 2865; 44 Ill Reg 11738) effective 10/23/20, replacing emergency amendments effective 7/6/20. The amendments exempt individuals who are applying for extended unemployment benefits for weeks beginning on or after 5/17/20 and whose unemployment is directly impacted by COVID-19 from the normal DES requirements to demonstrate a systematic and sustained search for work and to demonstrate that their prospects for finding work are “good”. The exemption from these requirements applies to the extent allowed by the federal Families First Coronavirus Response Act. Persons seeking extended unemployment benefits for COVID-related layoffs are affected.

Questions/requests for copies of the 4 DES rulemakings: Kevin Lovellette, DES, 33 S. State St., Room 930, Chicago IL 60603, 312/793-1224, fax 312/793-5645, kevin.lovellette@illinois.gov

■ ESDA REQUIREMENTS

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted amendments to Political Subdivision Emergency Services and Disaster Agencies (29 IAC 301; 44 Ill Reg 11354) effective 10/23/20, replacing emergency amendments effective 6/8/20. The rulemaking authorizes IEMA to grant waivers from the requirements of the Part when requested by local Emergency

Services and Disaster Agencies (ESDAs) or on its own initiative, provided these waivers are authorized by law and will not result in undue hazard to public health, safety or property. Additionally, local ESDAs seeking waivers from the requirement to conduct a disaster response exercise at least once every 4 years must submit documentation supporting the waiver to IEMA at least 60 days prior to submitting an application for accreditation or certification. Waiver applications from mandated ESDAs (those that the Illinois Emergency Management Agency Act requires to be established, e.g., county or multi-county ESDAs) and non-mandated accredited ESDAs will be evaluated by the IEMA State Exercise Officer and the respective Regional Coordinator. Waiver applications from non-mandated, unaccredited ESDAs shall be evaluated by the applicable county. All waiver requests will be evaluated based on criteria established by the Federal Emergency Management Agency and all approvals documented in writing. Existing ESDA accreditations, as well as certifications for non-mandated, unaccredited ESDAs, may also be extended up to 2 years beyond the currently established 2-year term (for a total accreditation/certification term of 4 years). Changes since 1st Notice add a definition of the Homeland Security Exercise and Evaluation Program (HSEEP) and specify that after action reports and corrective action/improvement plans shall be evaluated for consistency with

HSEEP. Small municipalities that have established non-mandated ESDAs may be affected by this rulemaking.

Questions/requests for copies: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860.

INSURANCE

The DEPARTMENT OF INSURANCE adopted a new Part titled Medical Necessity Criteria for Serious Mental Illnesses for Individuals Under the Age of 26 (50 IAC 2035; 44 Ill Reg 11378) effective 10/23/20, implementing Public Act 101-461. The new Part establishes the medical necessity criteria to be used by individual or group health insurance coverage, HMO plans, and self-insured benefit plans offered to employees of the State, counties, municipalities, and school districts when reviewing claims for treatment of serious mental illness in persons under age 26. Provisions for coverage of Assertive Community Treatment (ACT), Community Support Team (CST) Treatment, and Coordinated Specialty Care (CSC) for First Episode Psychosis Treatment are included. Medical necessity determinations for service initiation and continuing coverage will be based on the individual’s diagnosis, severity of illness, effectiveness of treatment, non-effectiveness of less intensive treatment, and other factors. Those

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professionals authorized to complete a physician certification statement (PCS) for a patient to use medi-car, service car or medically supervised ground ambulance transportation. The rulemaking also implements Public Act 101-649 by allowing a medical transportation provider who has not been able to obtain a PCS within 10 calendar days following the date of service to claim payment by documenting that an attempt was made to obtain the PCS. Medical transportation providers and medical professionals are affected by this rulemaking.

Questions/requests for copies/ comments through 12/21/20: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, HFS.Rules@illinois.gov

MEDICAL INSURANCE

The DEPARTMENT OF INSURANCE proposed

amendments to Construction and Filing of Accident and Health Insurance Policy Forms (50 IAC 2001; 44 Ill Reg 17603) incorporating the statutory Insurance Code limit on allowable incentives for wellness programs (currently, rule sets a cap of 20% of the entire cost of individual or family coverage, but this cap is now in conflict with statute that establishes a 30% cap). The rulemaking also extends some of the provisions in this Part (corporate name requirements, prohibition of discretionary clauses) to short-term, limited duration health insurance coverage and excepted benefit policies.

Questions/requests for copies/ comments through 12/21/20: Robert Planthold, DOI, 122 S. Michigan Ave., Fl. 19, Chicago IL 60603, 312/814-5445, or Susan Anders, DOI, 320 W. Washington St., Fl. 4, Springfield IL 62767, 217/558-0957.

IELRB PROCEDURES

The ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD proposed an amendment to General Procedures (80 IAC 1100; 44 Ill Reg 17536) permitting e-mail service of documents such as notices of hearing, petitions, unfair labor practice charges, final IELRB opinions, and subpoenas. Documents containing protected confidential or personally identifying information, or showing interest in representation petitions, cannot be served by e-mail. Parties to an IELRB proceeding must designate an e-mail address at which it will accept service. This proposed rulemaking, upon adoption, will replace an emergency rule effective 9/9/20 at 44 Ill Reg 15998.

Questions/requests for copies/ comments through 12/21/20: Ellen M. Strizak, IELRB, 160 N. LaSalle St., Suite N-400, Chicago IL 60601-3103, 312/793-3170, ellen.strizak@illinois.gov

Adopted Rules

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affected by this rulemaking include persons with health insurance claims for themselves or a family member with serious mental illness.

Questions/requests for copies: Ryan Gillespie, DOI, 320 W. Washington St., Fl. 4, Springfield IL 62767-1000, 217/558-2746.

TAX LIENS

The DEPARTMENT OF REVENUE adopted a new Part titled State Tax Lien Registry (86 IAC 720; 44 Ill Reg 10865) effective 10/20/20 implementing provisions of Public Act 100-22. The rulemaking establishes a public registry/database of tax liens that have been filed with and enforced by DOR. Interested

persons may purchase electronic subscriptions to this registry by submitting a subscription form (available at the Department's website) with a \$500 initial purchase fee. Subscriptions are valid for one year and may be renewed annually for a \$50 renewal fee. Since 1st Notice DOR has added fee amounts.

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Questions/requests for copies: Brian Fliflet, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

■ LABOR PROCEEDINGS

The ILLINOIS LABOR RELATIONS BOARD adopted amendments to General Procedures (80 IAC 1200; 44 Ill Reg 12061) and Unfair Labor Practice Proceedings (80 IAC 1220; 44 Ill Reg 12068), both effective 10/26/20, replacing emergency amendments that were effective 7/6/20. These rulemakings expand the use of e-mail to file and to serve documents in ILRB proceedings. Documents that will be served by e-mail include complaints, unfair labor practice charges, notices of hearing, dismissals, hearing orders, recommended decisions and orders, and Board decisions and orders. Any attorney representing a party to an ILRB proceeding shall provide the Board with at least one e-mail address to which documents can be served; the address must be updated if changed, and persons or entities who regularly practice or appear before the Board must verify their e-mail address annually. Documents that will not be served by e-mail are those that contain a Social Security number, an individual taxpayer identification number, a financial account or debit/credit card number, any information concerning a minor, or any other information that could be deemed

personal, proprietary, confidential or trade secret information. Those affected by these rulemakings include attorneys and others who take part in ILRB proceedings.

Questions/requests for copies of the 2 ILRB rulemakings: Anna Hamburg-Gal, ILRB, 160 N. La Salle St., Suite 400, Chicago IL 60601, 312/793-6380, anna.hamburg-gal@illinois.gov

UNIVERSITIES RETIREMENT

The STATE UNIVERSITIES RETIREMENT SYSTEM adopted amendments to Universities Retirement (80 IAC 1600; 44 Ill Reg 4559) effective 10/22/20 implementing several recent changes to the Pension Code. The definition of an “affected annuitant” (a person who continues to work or is rehired while receiving a pension and for whom the employer must make additional contributions to SURS) is expanded to include persons who received annualized annuities of less than \$10,000 on or after 12/8/17. Other provisions allow electronic signatures on beneficiary designations; allow students who attend more than one educational institution to qualify for full-time student survivor benefits if their aggregate class load is equivalent to that of a full-time student; and extend eligibility for the accelerated pension benefit buyout program to persons retiring on or before 6/30/24 (formerly 6/30/21).

Questions/requests for copies Albert J. Lee, SURS, 1901 Fox

Dr., Champaign IL 61820, 217/378-8861.

SOS EMPLOYMENT

The SECRETARY OF STATE adopted an amendment to Merit Commission (80 IAC 50; 44 Ill Reg 11746), effective 10/21/20, replacing an emergency amendment effective 6/30/20. The rulemaking extends hearings under the SOS Merit Employment Code for the duration of the Gubernatorial Disaster Proclamations and for 90 days thereafter.

Questions/requests for copies: Pamela Wright, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, pwright@ilsos.gov.

JCAR PROCEDURES

The JOINT COMMITTEE ON ADMINISTRATIVE RULES adopted an amendment to Review of Proposed Rulemaking (1 IAC 220; 44 Ill Reg 5178) effective 10/20/20, replacing an emergency amendment effective 3/17/20 through 8/13/20. This amendment requires State agencies to file Second Notices of proposed rulemakings by e-mail as PDF documents, instead of by regular mail or in person.

Questions/requests for copies: Vicki Thomas, JCAR, 700 Stratton Bldg., Springfield IL 62706, jcar@ilga.gov

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 be listed in next week's *Illinois Register* and considered at the November 17, 2020 JCAR meeting.

DEPT OF COMMERCE & ECONOMIC OPPORTUNITY

Local Tourism and Convention Bureau Program (14 IAC 550; 44 Ill Reg 13175) proposed 8/14/20

Local Coronavirus Urgent Remediation Emergency (or Local CURE) Support Program (14 IAC 700; 44 Ill Reg 11735) proposed 7/17/20

DEPT OF HEALTHCARE & FAMILY SERVICES

Covering All Kids Health Insurance Program (89 IAC 123; 44 Ill Reg 12715) proposed 7/31/20

Children's Health Insurance Program (89 IAC 125; 44 Ill Reg 12717) proposed 7/31/20

Veteran's Health Insurance Program (89 IAC 128; 44 Ill Reg 12719) proposed 7/31/20

Medical Payment (89 IAC 140; 44 Ill Reg 12721) proposed 7/31/20

Specialized Healthcare Delivery Systems (89 IAC 146; 44 Ill Reg 12723) proposed 7/31/20

Hospital Services (89 IAC 148; 44 Ill Reg 12725) proposed 7/31/20

Special Eligibility Groups (89 IAC 118; 44 Ill Reg 13858) proposed 8/28/20

DEPT OF HUMAN SERVICES

Child Care (89 IAC 50; 44 Ill Reg 13636) proposed 8/21/20

Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 44 Ill Reg 13638) proposed 8/21/20

DEPT OF HUMAN RIGHTS

Procedures of the Department of Human Rights (56 IAC 2520; 44 Ill Reg 13847) proposed 8/28/20

DEPT OF NATURAL RESOURCES

Camping on Department of Natural Resources Properties (17 IAC 130; 44 Ill Reg 14088) proposed 9/4/20

DEPT OF PUBLIC HEALTH

Family Practice Residency Code (77 IAC 590; 44 Ill Reg 13227) proposed 8/14/20

Control of Communicable Diseases Code (77 IAC 690; 44 Ill Reg 13298) proposed 8/14/20

SECRETARY OF STATE

Sale of Information (92 IAC 1002; 44 Ill Reg 12996) proposed 8/7/20

Remittance Agents (92 IAC 1019; 44 Ill Reg 14097) proposed 9/4/20

Commercial Driver Training Schools (92 IAC 1060; 44 Ill Reg 13301) proposed 8/14/20

Issuance of Licenses (92 IAC 1030; 44 Ill Reg 13005) proposed 8/7/20

Cancellation, Revocation or Suspension of Licenses or Permits (92 IAC 1040; 44 Ill Reg 13023) proposed 8/7/20

Cancellation, Revocation or Suspension of Licenses or Permits (92 IAC 1040; 44 Ill Reg 14477) proposed 9/11/20

DEPT OF TRANSPORTATION

General Grantmaking (DOT) (44 IAC 7050; 44 Ill Reg 14099) proposed 9/4/20