

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

CHILD PERFORMERS

The DEPARTMENT OF LABOR proposed amendments to the Part titled Illinois Child Labor Law (56 IAC 250; 45 Ill Reg 4071) updating DOL rules regarding child performers in film, television, stage and related productions. The rulemaking requires that, prior to casting any child under age 16, the employer must provide the child's parent/guardian with an accurate description of the performance that will be expected of the child. The parent/guardian may refuse to give permission for any performance that he or she believes is beyond the capabilities of the child or was not accurately described prior to casting. The rulemaking also establishes more detailed limitations, by age, on the time children may spend working on a movie, TV or related production set. Children under age 16 shall not perform more than 42 hours per week (7 hours per day, 6 days

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*.

per week; currently the limit is 48 hours per week or 8 hours per day, 6 days per week) nor shall they perform without a parent/guardian or chaperone present. Infants under 15 days old and premature infants under 1 year old shall not be featured in film or TV productions. Maximum work time allowed per day is 20 minutes for infants up to age 6 months; 2 hours

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Emergency Rulemakings

SCHOOL MEALS

The STATE BOARD OF EDUCATION adopted an emergency amendment to the Part titled School Food Services (23 IAC 305; 45 Ill Reg 4155) effective 3/12/21 for a maximum of 150 days, updating references to federal laws and regulations that define a "reimbursable meal" under the USDA school breakfast and lunch programs. (A companion proposed rulemaking appeared in the 3/12/21 *Illinois Register* at 45 Ill Reg 2773.) The amendment states that if the State Superintendent determines that exigent circumstances exist due to an issue related to the health and safety of students, a reimbursable meal may include any meal meeting the criteria of the Richard B. Russell National School Lunch Act (current rule cites two other, more narrowly defined federal

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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

■ CANNABIS TAX

The DEPARTMENT OF REVENUE adopted an amendment to Cannabis Purchaser Excise Tax (86 IAC 423; 44 Ill Reg 17893) effective 3/9/21, stating that the definition of “cannabis-infused products” does not include cannabis concentrates (cannabinoids, including THC, extracted from the plant for smoking or for making cannabis infused products), and defining “smoking” as changing cannabis from a hard, soft, or liquid form via combustion, heat, electricity or batteries into a form that can be inhaled by the user. DOR states that these definitions clarify which products are taxed at the 20% rate applicable to cannabis-infused products and which are taxed at a rate based on the amount of THC in the product (e.g., cannabis concentrates, vaping devices). Sellers and purchasers of adult use cannabis are affected by this rulemaking.

Questions/requests for copies: Richard S. Wolters, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

ABLE ACCOUNTS

The OFFICE OF THE STATE TREASURER adopted amendments to the Part titled Achieving a Better Life Experience (ABLE) Account Program (74 IAC 722; 44 Ill Reg 18867) effective 3/12/21, aligning the Part with Public Act 101-329. The rulemaking allows guardians of the person (in addition to guardians of an estate or other limited-purpose guardians) to open ABLE accounts (tax-advantaged accounts in which funds can be set aside for a person with a disability without affecting that person’s eligibility for Supplemental Security Income or other benefits); simplifies the process by which guardians and designated representatives can establish ABLE accounts; replaces the term “account beneficiary” with “designated beneficiary”; clarifies the ABLE Program’s investment policy; and allows the Treasurer to enter into reciprocal agreements with other states allowing Illinois residents to participate in those states’ ABLE plans and/or allowing non-Illinois residents to participate in the Illinois plan.

Questions/requests for copies: Maya Ganguly, Office of the Treasurer, 15-600 James R. Thompson Center (100 W. Randolph St.), Chicago IL 60601, 3 1 2 / 8 1 4 - 3 6 4 2 , MGanguly@illinoistreasurer.gov

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted an amendment to Pay Plan (80 IAC 310; 44 Ill Reg 19115) effective 3/12/21, reflecting contractual step increases in pay to certain members of an AFSCME bargaining unit representing educators employed as school counselors and special education resources coordinators by the Departments of Human Services and Juvenile Justice. The rulemaking corrects rate tables to reflect inclusion of \$25 per month step increases that take effect 7/1/20, 7/1/21 and 7/1/22.

Questions/requests for copies: Jason Doggett, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-4267, fax 217/5 2 4 - 4 5 7 0 , CMS.PayPlan@illinois.gov

Emergency Rulemakings

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regulations). SBE states that this amendment cross references a more expansive definition of a reimbursable meal that will enable the State to receive federal reimbursement for free meals provided by schools during the COVID-19 pandemic or during similar events in the future.

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

■ HOME SERVICES PROGRAM

The DEPARTMENT OF HUMAN SERVICES adopted emergency amendments to the Parts titled Program Description (89 IAC 676; 45 Ill Reg 4159), Customer Rights and Responsibilities (89 IAC 677; 45 Ill Reg 4166), Service Planning and Provision (89 IAC 684; 45 Ill Reg 4171) and Provider Requirements, Type Services, and

Rates of Payment (89 IAC 686; 45 Ill Reg 4178), all effective 3/10/21 for a maximum of 150 days, concerning the Home Services Program (HSP) for persons with disabilities. Identical proposed rulemakings appear in this week's *Register* at 45 Ill Reg 4063, 4065, 4067 and 4069. Amendments to Part 676 permit HSP customers, for the duration of the Gubernatorial COVID-19 Disaster Proclamations, to approve necessary forms by telephone or fax and to obtain an additional 240 hours of respite care in their service plan if they have exhausted the 240 hours normally allowed per calendar year as a direct result of the COVID-19 pandemic. Amendments to Parts 677 and 684 cross-reference the telephone/fax signature provisions in Part 676. Additionally, the Part 684 amendments allow immediate family members who normally cannot be HSP paid service providers (the customer's spouse; the customer's parent, legal

guardian, foster parent, or stepparent, if the customer is a minor; or the customer's minor child) to serve as paid service providers if necessary due to the pandemic, and exempt persons who were hospitalized due to the COVID-19 pandemic from certain provisions that normally limit HSP personal assistance services during hospitalization. The Part 686 amendments allow HSP customers under the HIV/AIDS Waiver to conduct their required monthly case management visits by phone instead of in person. Customers and service providers of the HSP are affected by these emergency rules.

Questions/requests for copies/comments on the 4 proposed rulemakings through 5/10/21: Tracie Drew, DHS, 100 S. Grand Avenue East, 3rd Floor, Springfield IL 62762, 217/785-9772.

Proposed Rulemakings

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for children ages 7 months through 2 years; 3 hours for children ages 3-5; 4 hours on school days and 6 hours on non-school days for children ages 6-8; and 5 hours on school days and 7 hours on non-school days for children ages 9-15. Children ages 6 through 15 must receive at least 3 hours of schooling on school days and all children must be allowed at least 1 hour (ages 3-15) or 2 hours (ages 7 months-2 years) per working day for rest, meals and

recreation. When work on a production prevents child performers from attending their regular schools, the employer must provide studio teachers (1 per 10 children ages 5-8; 1 per 20 children ages 9-15) with professional educator licenses to provide instruction in accordance with Illinois learning standards. Licensed medical professionals (including, for infants, at least one registered nurse per 3 infants under 6 months, or per 10 infants ages 7 months -1 year) also must be onsite and available to respond

to medical emergencies when child performers are present. Child performers may not be sent to wardrobe, dressing, hair dressing or makeup unless accompanied and supervised by a chaperone or studio teacher. The rulemaking also includes general updates to two Sections regarding employment certificates issued by school officials to any child under age 16 seeking permission to work before/after school or on non-school days. Those affected by

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Proposed Rulemakings

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this rulemaking include producers of entertainment productions featuring child performers.

Questions/requests for copies/comments through 5/10/21: Jason Keller, DOL, 900 S. Spring St., Springfield IL 62704, 217/782-1706, Jason.keller@illinois.gov

MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Assistance Programs (89 IAC 120; 45 Ill Reg 4043) concerning services provided under the Home and Community-Based Services Medicaid Waiver for medically fragile, technology dependent persons with disabilities. The rulemaking expands covered services to persons determined eligible for the waiver to include services of Certified Nursing Assistants and in-home shift nursing, when these are not already covered under the general State Medicaid Plan. The estimated cost of waiver services must not exceed 125% of the average cost of hospital or skilled nursing care that would be appropriate to the participant's medical needs. Provisions for the federally required Person Centered Plan of Care are also added; this plan must be reviewed every 12 months, when there is a significant change in the participant's medical needs, or at the request of the participant or his/her family. An individual who does not require at

least one waiver service, or who does not require waiver services at least once a month, will be terminated from the program. Termination will also occur if a participant or his/her family fails to comply with care coordination activities or interferes with provision of services.

Questions/requests for copies/comments through 5/10/21: Steffanie Garrett, HFS, 201 S. Grand Avenue East, 3rd Fl., Springfield IL 62763-0002, HFS.Rules@illinois.gov

AIDS DRUG ASSISTANCE

The DEPARTMENT OF PUBLIC HEALTH proposed an amendment to AIDS Drug Assistance Program (77 IAC 692; 45 Ill Reg 4090) updating the income eligibility threshold for the program (300% of the Federal Poverty Level) to reflect the 2021 Federal Poverty Guidelines. The maximum gross income threshold for 1 person is raised to \$38,640; for a 2-person household, to \$52,260; and for a 3 person household, to \$65,880.

Questions/requests for copies/comments through 5/10/21: Tracey Trigillo, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-1159, dph.rules@illinois.gov

HOSPITAL ASSISTANCE

The OFFICE OF THE ATTORNEY GENERAL proposed an amendment to Hospital Financial Assistance under the Fair Patient Billing Act (77 IAC 4500; 45 Ill Reg

3732) implementing the 2021 Federal Poverty Guidelines (used as a benchmark for determining assistance eligibility).

Questions/requests for copies/comments through 5/10/21: Lynn Patton, OAG, 500 S. Second St., Springfield IL 62701, 217/524-1504, or David F. Buysse, OAG, 100 W. Randolph St., 12th Fl., Chicago IL 60601, 312/814-7236.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to Pay Plan (80 IAC 310; 45 Ill Reg 3736) making the Pay Plan generally applicable for Fiscal Year 2022. In-hire rates for several trainee titles are terminated effective 12/31/20 because they fall below the State minimum wage that took effect 1/1/21. The list of divided classes (job titles represented by more than one bargaining unit) is updated effective 2/25/21. Various obsolete titles are removed and new titles added, obsolete pay tables in effect prior to 1/1/21 are removed, and pay rates for boiler safety specialists and boiler safety audit specialists employed by the Office of the State Fire Marshal are updated.

Questions/requests for copies/comments through 5/10/21: Jason R. Doggett, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-4267, fax: 217/524-4570, CMS.PayPlan@Illinois.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 April 13, 2021 JCAR meeting. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Illinois Credit Union Act (38 IAC 190; 45 Ill Reg 1093) proposed 1/22/21

Real Estate Appraiser Licensing (68 IAC 1455; 45 Ill Reg 204) proposed 1/4/21

DEPT OF HEALTHCARE & FAMILY SERVICES

Specialized Healthcare Delivery Systems (89 IAC 146; 44 Ill Reg 13629) proposed 8/21/20

DEPT OF PUBLIC HEALTH

Compassionate Use of Medical Cannabis Pilot Program (77 IAC 946; 44 Ill Reg 17323) proposed 10/30/20

IL STATE POLICE

Firearm Dealer License Certification Act (20 IAC 1232; 45 Ill Reg 591) proposed 1/8/21

STATE UNIVERSITIES RETIREMENT SYSTEM

Universities Retirement (80 IAC 1600; 45 Ill Reg 213) proposed 1/4/21

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*

Representative Tom Demmer

Senator John F. Curran

Representative Michael Halpin

Senator Donald DeWitte

Representative Frances Ann Hurley

Senator Kimberly Lightford

Representative Steven Reick

Senator Tony Muñoz

Representative Curtis J. Tarver, II

Senator Sue Rezin

Representative Keith Wheeler, *co-chair*

**Kim Schultz
Executive Director**