

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

VOLUME 49

ISSUE 1

January 3, 2025

The Flinn Report is a weekly summary of regulatory actions of State agencies published in the *Illinois Register* and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR). The Flinn Report honors founding JCAR member Representative Monroe Flinn, and is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

▪ FUNERAL & BURIAL BENEFITS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to Related Program Provisions (89 IAC 117; 49 Ill Reg 32) clarifying eligibility criteria and application procedures for DHS' Murdered Children Funeral and Burial Assistance Program. The program provides assistance with funeral and burial expenses for children under 17 years of age who are killed in Illinois by a firearm in an act of first- or second-degree murder, involuntary manslaughter, or voluntary or involuntary manslaughter of an unborn child. For deaths that occurred between 7/1/22 and 6/30/24, the maximum benefit is \$10,000; for deaths on or after 7/1/24, DHS will adjust the maximum benefit annually for inflation. Funeral directors or cemetery authorities may submit requests for disbursement up to 365 calendar days after the occurrence of the crime (requests submitted more than 1 year after the

crime must be accompanied by an explanation for the delay). Requests must be accompanied by documentation of the child victim's cause of death, including a copy of the death certificate and an affidavit of the facts of the death; documentation of the eligible survivor's household income; and a copy of any invoices for funeral and burial expenses. Payments

**Adopted Rules, Page 3
No Second Notices This Week**

will be made within 30 days after DHS receives a completed request. The rulemaking also clarifies the services that can be covered under this program, which include, but are not limited to, transportation and preparation of remains; provision of a casket, vault, mausoleum, columbarium or urn; and administration of funeral arrangements, including printed materials (e.g., memorial cards or programs), transportation of remains

to the burial site, necessary facilities and equipment, and any other services the Department may allow. Funeral directors and cemetery authorities are affected by this rulemaking.

EARLY INTERVENTION

DHS also proposed an amendment to Early Intervention Program (89 IAC 500; 49 Ill Reg 45) that updates the fee scale for Early Intervention services. The new sliding fee scale begins at \$50 per month for families with incomes between 319% and 350% of FPL, with no fees for families with incomes at or below 318% of FPL. (Current rule includes fees of \$10 to \$50 per month for families with incomes between 186% and 318% of FPL.) Fees for higher income brackets (more than 350% FPL) are unchanged.

(cont. page 2)

ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Temporary rules adopted for no more than 150 days.
PROPOSED RULEMAKINGS: Rules proposed by agencies this week, commencing a First Notice public comment period of at least 45 days.
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/or non-profit organizations. Agencies must consider comments from these groups and attempt to minimize regulatory burdens on them.
QUESTIONS/COMMENTS: Submit mail, e-mail or phone calls to the agency personnel listed below each summary.
RULE TEXT: First Notice proposed text, emergency rule and peremptory rule text is available at the Secretary of State website (<https://www.ilsos.gov/departments/index/register/home.html>) or at the Illinois General Assembly website (<http://www.ilga.gov>) under "Illinois Register". Second Notice text for proposed rulemakings (original version with any changes made by the agency during First Notice included) is available at the JCAR website.

Proposed Rulemakings

(cont. from page 1)

Questions/requests for copies/comments on the 2 DHS rulemakings through 2/18/25: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217-785-9772, DHS.AdministrativeRules@illinois.gov

ID/DD FACILITIES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Intermediate Care for the Developmentally Disabled Facilities Code (77 IAC 350; 49 Ill Reg 51) and Medically Complex for the Developmentally Disabled Facilities Code (77 IAC 390; 49 Ill Reg 85) implementing Public Acts 103-1 and 102-1095. These rulemakings allow DPH to conduct inspections of ICF/DD and MC/DD facilities that normally must be conducted within 30 days of a complaint that does not involve resident abuse or neglect within "an appropriate timeframe to the extent feasible" during statewide public health emergencies. The amendments also implement the Latex Glove Ban Act, which prohibits use of latex gloves in food service and patient care if non-

latex gloves are available. If non-latex gloves are in short supply, their use must be prioritized for residents with known or self-stated latex allergies or who cannot communicate their allergy status. Other provisions update statutory language allowing DPH inspectors to conduct an informal exit conference with staff of an ICF/DD facility when a serious deficiency or violation is found, so that the facility can correct the deficiency as soon as possible. Finally, the Part 350 rulemaking extends a statutory exemption from the 120-day initial training requirement for nursing assistants and habilitation aides when there is a statewide public health emergency, or when the prospective aide/assistant is enrolled in an approved semester/term course at a community college or other institution that is taught on a semester or term basis, to developmental disabilities aides and direct support persons.

Questions/requests for copies/comments on the 2 DPH rulemakings through 2/18/25: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217-782-1159, dph.rules@illinois.gov

LTC COST REPORTS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed

amendments to Medical Payment (89 IAC 140; 49 Ill Reg 1) concerning the annual filing deadlines for Long Term Care (LTC) facility financial and statistical reports (cost reports). The rulemaking extends the cost report due date for facilities whose fiscal year ends on or before June 30 to November 30 of the applicable year. For facilities whose fiscal year ends after June 30, the report is due 5 months after the fiscal year end date. (Currently, all reports are due within 90 days after the end of the facility's fiscal year.) A 30-day extension of the due date that is provided for in current rule will only be granted for extraordinary circumstances over which the provider has no control. The rulemaking also provides that cost reports filed prior to July 1 (currently, prior to April 1) of the applicable year will be used to calculate the facility's rates for the upcoming July 1 rate year.

Questions/requests for copies/comments through 2/18/25: Christopher Gange, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, 217-782-1233, HFS.Rules@illinois.gov

Adopted Rules

▪ INDUSTRIAL HEMP

The DEPT OF AGRICULTURE adopted amendments to the Part titled Industrial Hemp Act (8 IAC 1200; proposed at 47 Ill Reg 18778), effective 12/23/24 at 49 Ill Reg 119, implementing U.S. Department of Agriculture industrial hemp regulations that were effective 1/1/22. The rulemaking defines academic research institutions that are eligible to participate in the industrial hemp program as institutions that offer agricultural programs or degrees; offer in-person programs at a physical location in Illinois; are Illinois non-profit entities; and conduct research on hemp. These may include public or private colleges and universities, community colleges, and public or nonpublic high schools registered with the State Board of Education. The acceptable THC level for commercial hemp and hemp products is no more than 0.3 percent by dry weight. Hemp crops may not be harvested until a sample of the lot (entire quantity of a particular plant variety to be harvested from a single field or farm), gathered at least 30 days prior to the scheduled harvest date, has been laboratory tested to ensure an acceptable THC level. Samples that test higher than 0.3 percent THC may be retested at the licensee's expense; if the initial test result is between 0.3 and 0.7 percent THC the cultivator may remediate the lot by shredding, blending, or sorting the plant material in a manner that reduces the THC concentration to an acceptable level, and then have it retested. If a sample tests above 0.3 percent THC twice (or once if a retest is not requested), the lot from which the sample came must be disposed of. Applicants for an industrial hemp growing license may be required to provide additional personal information for background checks if

USDA requires a background check. Academic research institutions must specify which testing laboratory they will use and consent to DOA collecting and forwarding requested data to USDA, which may include background checks, disposal reporting, and real-time information. The existing prohibition against granting a hemp cultivation license to any person convicted of a controlled substance related felony within the previous 10 years is extended to persons with "executive managerial control" of a corporation, partnership or other entity that applies for a license, but not to any non-executive employees. (Since 1st Notice, DOA has clarified that this provision will be removed if it is repealed by the federal government.) Processors of industrial hemp may not be located in residentially-zoned areas. Industrial hemp cultivators must file their final annual reports by December 1 (currently, February 1) and licensees must also report their hemp cultivation acreage to the Farm Services Administration (FSA) within 30 days after planting. Other provisions impose an annual licensing fee of \$100 on academic research institutions and \$200 on government demonstration and research entities (commercial growers and processors pay \$375 per year, \$750 for two years, or \$1000 for 3 years); carve out exceptions to certain testing requirements for hemp grown by these institutions and entities; allow DOA to conduct both scheduled and unannounced annual inspections, random inspections, and inspections for the purpose of auditing; and specify how testing samples are to be collected and how hemp is to be transported. Since 1st Notice, DOA has revised various definitions and language to clarify the scope of the rulemaking and emphasize that its purpose is to align the Part with

federal law. DOA also has added language allowing it to charge reasonable fees for providing optional testing and sampling services to licensees of no more than \$500 per sample or \$1,000 per test. Academic, government and commercial institutions that participate in the industrial hemp program are affected.

Questions/requests for copies: Sam McGee, DOA, State Fairgrounds, P. O. Box 19281, Springfield IL 62794-9281, 217-790-1803, Samuel.mcgee@illinois.gov

SNAP FRAUD

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; proposed at 48 Ill Reg 12690) effective 12/19/24 at 49 Ill Reg 180, that update and add provisions regarding investigation of fraud, abuse and other intentional program violations. Individuals convicted of using or receiving SNAP benefits in a transaction involving sale of a controlled substance shall be disqualified for 24 months for an initial violation and permanently for any subsequent violations. Persons convicted of using or receiving SNAP benefits in a transaction involving the sale of firearms, ammunition or explosives shall be disqualified permanently. Disqualification begins in the second month following the date that the individual receives notice of the disqualification. The rulemaking also establishes a SNAP Fraud Unit within DHS' Division of Family and Community Services to receive and investigate reports of suspected SNAP fraud or abuse. All reports will be evaluated within 120 days to determine if further action is necessary. Civil or criminal fraud alle-

(cont. page 4)

Adopted Rules

(cont. from page 3)

gations may be reported to an appropriate authority such as a federal, State or local prosecutor, the Illinois State Police, or a local law enforcement agency. Allegations of administrative violations may be referred for benefit analysis, audits, administrative reviews, or an eligibility review. The SNAP Fraud Unit may also enter into agreements with other State agencies and with federal agencies to share data necessary for SNAP recipient and vendor eligibility verification.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217-785-9772, DHS.AdministrativeRules@illinois.gov

▪ TB SCREENING

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Control of Tuberculosis Code (77 IAC 696; proposed at 48 Ill Reg 437) effective 12/18/24 at 49 Ill Reg 202, that incorporate recommendations from the federal Centers for Disease Control and Prevention and include symptom evaluation in the screening process for newly hired health care workers and child care workers. Since 1st Notice, in response to public comment, DPH removed proposed new testing and reporting requirements for suspected or

confirmed cases of latent tuberculosis infection (LTBI). DPH also added provisions for local health authorities to report to the CDC when an individual with an active TB infection intends to travel by commercial aircraft. Health care and child care workers and local health departments may be affected by this rulemaking.

Questions/requests for copies: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, dph.rules@illinois.gov

AUDIT REPORTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted an amendment to the Part titled Student Loan Servicing Rights Act (38 IAC 1010; proposed at 48 Ill Reg 13872) effective 12/18/24 at 49 Ill Reg 176, concerning licensed lenders' required annual independent audit reports. Licensees who do not file their reports within 105 days after the end of their fiscal year (as required under existing rule) will incur a late fee of \$50 per day each day that the report is late, for a maximum of 3 months. A licensee's request to extend the report filing deadline must be made in writing, must explain the need for the extension, and must be received by the Director of DFPR's Division of Banking prior to the regular filing deadline. In deciding whether to grant an extension, the Director will consider whether the need for a delay is due to circumstances beyond the licensee's control. The Director may

also appoint an independent auditor, at the licensee's expense, any time that an annual audit report has not been timely filed.

Questions/requests for copies: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451, Craig.Cellini@illinois.gov

AUDITOR GENERAL PROCUREMENT

The OFFICE OF THE AUDITOR GENERAL adopted amendments to the Part titled Purchases and Contracts (44 IAC 500; proposed at 48 Ill Reg 14216) effective 1/1/25 at 49 Ill Reg 164, implementing Public Act 103-865. The rulemaking raises the limits for purchases that are exempt from various provisions of the Procurement Code as follows: \$1,500 (previously \$500) per piece for furniture purchases for which surplus furniture need not be considered before new furniture, and property leases of 10,000 square feet or less with base rent of less than \$200,000 (previously \$100,000) per year. The rulemaking also updates statutory language.

Questions/requests for copies: Margaret Livingston, Office of the Auditor General, 400 W. Monroe, Suite 306, Springfield IL 62704, 217-782-6046, mlivingston@auditor.illinois.gov

Next JCAR Meeting: Tuesday, Jan. 14, 10:30 a.m.

Room C-600, Bilandic Bldg., 160 N. LaSalle St., Chicago

Meeting will be live streamed on the JCAR website

Joint Committee on Administrative Rules

Senator Bill Cunningham, Co-Chair

Senator Cristina Castro

Senator Donald DeWitte

Senator Dale Fowler

Senator Napoleon Harris, III

Senator Sue Rezin

Representative Ryan Spain, Co-Chair

Representative Eva-Dina Delgado

Representative Jackie Haas

Representative Steven Reick

Representative Curtis Tarver, II

Representative Dave Vella

Kim Schultz, Executive Director ■ Kevin Kulavic, Deputy Director

700 Stratton Office Building, Springfield IL 62706

217-785-2254 ■ jcar@ilga.gov