

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

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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.

Emergency Rules

▪ MEDICAID MCOs

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted emergency amendments to Medical Payment (89 IAC 140; 49 Ill Reg 9056) effective 6/30/25 for a maximum of 150 days. Identical proposed amendments appear in this week's *Register* at 49 Ill Reg 8871. The emergency and proposed rulemakings implement Public Acts 103-593 and 104-9 by standardizing utilization review and transparency practices for Medicaid managed care organizations. These rules apply to all Medicaid MCO service authorization programs and their decisions to approve, wholly or partially deny, change the level of payment, or otherwise limit coverage for a health care service, whether made before, concurrent with, or after provision of that service. Hospitals and other healthcare providers enrolled in the Medicaid program are affected.

Utilization Review

Any health care services included in the federal Centers for Medicare and Medicaid Services Medicare Inpatient Only (IPO) list must be approved at the level of care requested by the provider and reimbursed according to the applicable payment methodology. If

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the provider determines that, in a specific case, it is clinically appropriate to deliver the service in an outpatient setting and the provider bills for the service at the outpatient rate, the MCO must reimburse the provider at the appropriate outpatient rate. (These requirements do not apply to rehabilitation hospitals, long-term acute care hospitals (LTACHs), or behavioral health or substance use disorder services provided by psychi-

atric hospitals.) Additions or exceptions to the IPO list must be approved by HFS, published at least 60 days in advance, and adhered to by all Medicaid MCOs. A healthcare service that has already been rendered, or is in the process of being rendered, shall not be subject to a second or subsequent medical necessity review when the MCO's service authorization program previously determined that the service was medically necessary. Coverage of approved and planned readmissions shall not be denied based on an MCO's coverage policies for unplanned readmissions. MCOs must also adhere to requirements contained in these rulemakings for peer-to-peer reviews, admissions to long-term acute care hospitals, and timelines for urgent service authorization requests. However, nothing in these rules supersedes or waives federal or State requirements

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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.

Emergency Rules

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regarding coverage of behavioral health or substance use disorder services.

Transparency

Effective 9/2/25, all Medicaid MCOs must publish, or link to, on their public website home pages their Illinois-specific policies and procedures for prior authorization and other forms of utilization review for medical services. These policies must be plainly written and must not require an account, password or credentials to access. At a minimum these policies must list all health care services included in each service authorization program and must also: specify, for each service, in-network and out-of-network coverage; list any MCO-specific payment and clinical review guidelines that replace or supplement nationally recognized review criteria; list commonly used service authorization program terms and their definitions; specify the dates when each requirement became effective in Illinois and any requirements were revised, removed or terminated; and the MCO's rationale for these revisions, removals or terminations. If an MCO plans to implement new requirements or change an existing requirement, it must update the website and notify providers at least 60 days prior to the effective date of the change. The website must also provide access to electronic service authorization request forms and outline the process by which a provider or an enrollee can appeal or request an external independent review of an adverse decision. Appeal forms shall be in a format prescribed by HFS. HFS shall also audit each MCO's compliance with these rules and file an annual report with the General Assembly on 4/30/26 and every April 30 thereafter. The report

must note for each MCO how many service authorization requests were ultimately approved, how many were denied (including denials upheld after a hearing process, peer-to-peer review, or external quality review), what type of service was requested, and how the outcomes compare with outcomes from other MCOs and from fee-for-service Medicaid coverage.

Questions/requests for copies/comments on the proposed rulemaking through 8/25/25: Kathy Hunt Muse, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, 217-782-1233, HFS.Rules@illinois.gov

• ESDA ACCREDITATION

The ILLINOIS EMERGENCY MANAGEMENT AGENCY AND OFFICE OF HOMELAND SECURITY adopted emergency amendments to the Part titled Political Subdivision Emergency Services and Disaster Agencies (29 IAC 301; 49 Ill Reg 9116) effective 6/30/25 for a maximum of 150 days. A companion proposed rulemaking appears in this week's *Register* at 49 Ill Reg 8875. The emergency rulemaking extends the maximum accreditation period for local Emergency Services and Disaster Agencies (ESDAs) from 4 years to 4 years 6 months, while the proposed rulemaking extends the maximum accreditation period to 6 years. IEMA-OHS states that emergency implementation of the 6-month extension is necessary to ensure that all local ESDAs remain accredited through the beginning of the 2026 federal fiscal year on 10/1/25 and thereby remain eligible for federally funded grants. Municipal and county ESDAs are affected.

Questions/requests for copies/comments on the proposed rulemaking through 8/25/25: Traci Burton, IEMA-OHS, 1035 Outer Park

Drive, Springfield IL 62704, 217-720-8242, Traci.Burton@illinois.gov

• BROADBAND GRANTS

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted emergency amendments to the Part titled Broadband Grant Programs (14 IAC 548; 49 Ill Reg 9037) effective 6/25/25 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 49 Ill Reg 8837. The emergency and proposed rules align this Part with recently revised policies of the National Telecommunications and Information Administration (NTIA), the federal agency which oversees the Broadband Equity, Access and Deployment (BEAD) program, so that the Illinois BEAD program remains eligible for federal funding. These rulemakings narrow the definition of a "community anchor institution" to institutions that facilitate broadband service to low-income, unemployed and elderly individuals; narrow the criteria for awarding grants to the amount of funding, speed to deployment, network speed and other technical capabilities; define a "priority broadband project" according to its technical capabilities; remove the definition of and references to "reliable" broadband service; remove references to digital equity initiatives; and require BEAD funded projects to commit to providing the promised service within 4 years after receiving a grant. Broadband service providers and community institutions who are eligible for BEAD grants are affected.

Questions/requests for copies/comments on the proposed rulemaking through 8/25/25: Gina Arterberry, DCEO, 1011 S. Second St., Springfield IL 62704-3004, 217-524-8974, Gina.M.Arterberry@illinois.gov

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Emergency Rules

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▪ CHILD CARE

The DEPARTMENT OF HUMAN SERVICES adopted emergency amendments to Child Care (89 IAC 50; 49 Ill Reg 9095) effective 7/1/25 for a maximum of 150 days. Identical

proposed amendments appear in this week's *Register* at 49 Ill Reg 8873. The emergency and proposed rulemakings update income eligibility thresholds for the Child Care Assistance Program (CCAP) to 225% of the current Federal Poverty Level for initial eligibility and 275% FPL for continuing eligibility, and also update the co-payment schedules based on income and family size.

Parents and child care providers enrolled in CCAP are affected.

Questions/requests for copies/comments on the proposed rulemaking through 8/25/25: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217-785-9772, DHS.AdministrativeRules@illinois.gov

Proposed Rulemakings

SPORTS WAGERING & GAMING

The ILLINOIS GAMING BOARD proposed amendments to the Parts titled Sports Wagering (11 IAC 1900; 49 Ill Reg 8840) and Riverboat and Casino Gambling (86 IAC 3000; 49 Ill Reg 8856) that prohibit the use of credit cards to fund a patron's electronic sports wagering or casino gaming account. (Debit cards and ACH transfers of funds the patron has on hand may still be used for this purpose.) The 86 IAC 3000 rulemaking additionally clarifies how electronic gaming credits may be added to or withdrawn from a patron's account; authorizes the IGB Administrator to establish and publish a monetary threshold for tournaments, giveaways and other promotional

activities requiring prior approval from the Administrator; and makes various technical changes. Entities that hold sports wagering or casino gaming licenses are affected.

Questions/requests for copies/comments through 8/25/25: Daniel Gerber, IGB, 160 N. LaSalle St., Chicago IL 60601, 312-814-4700, fax 312-814-7253, IGB.RuleComments@Illinois.gov

AIR POLLUTION

The POLLUTION CONTROL BOARD proposed an amendment to the Part titled Organic Material Emission Standards and Limitations for the Metro-East Area (35 IAC 219; 49 Ill Reg 8883) to correct an inadvertent

omission in a previous rulemaking. The rulemaking extends an exemption to volatile organic material (VOM) emissions limits for specialty coatings used at aerospace manufacturing and rework operations in the Metro East area to include primers, topcoats, and chemical milling maskants used for the same purpose, consistent with federal Environmental Protection Agency guidelines.

Questions/requests for copies/comments through 8/25/25: Clerk's Office, PCB, 60 E. Van Buren St., Suite 630, Chicago IL 60605, 312-814-3621, don.brown@illinois.gov. Please reference Docket R25-25. Copies of the Board's opinions and orders may be downloaded at www.pcb.illinois.gov.

JCAR Meeting Action

At its July 8, 2025 meeting, the Joint Committee on Administrative Rules approved the following actions.

RECOMMENDATION

With respect to the Department of Human Services' rulemaking titled Early Intervention Program (89 IAC 500; 49 Ill Reg 45), JCAR recommends that the Department follow its own rules, refrain from implementing changes to its fee collection policies outside of rule and also strive to reflect changes to its fee collection policies in a more timely manner.

EXTENSION

JCAR, with the concurrence of the Department of Financial and Professional Regulation, extended the Second Notice period for the rulemaking titled The Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 (68 IAC 1175; 49 Ill Reg 1664) for an additional 45 days.

NO ACTION

JCAR took no action on the Department of Children and Family Services rulemaking titled Placement and Visitation Services (89 IAC 301; 48 Ill Reg 10483), which was extended from the June meeting agenda. This rulemaking will expire before the end of the Second Notice period and will not be adopted.

Adopted Rules

IMMIGRANT HEALTHCARE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to Special Eligibility Groups (89 Ill. Adm. Code 118; proposed at 49 Ill Reg 3418), effective 7/1/25 at 49 Ill Reg 8960, replacing emergency rules that were effective on 2/5, 3/4 and 6/1/25. This rulemaking repeals all formerly existing rules for the Health Benefits for Immigrant Adults program, which served persons ages 42 to 64 who were not U.S. citizens or legal permanent residents, effective 7/1/25. The rulemaking also permanently adopts the following restrictions previously enacted in emergency rules for the Health Benefits for Immigrant Seniors (HBIS) program for persons age 65 and older: participation is limited to persons who are neither U.S. citizens nor legal permanent residents; HFS may limit or eliminate backdated coverage (up to 3 months prior to the month of application) when necessary to ensure that costs do not exceed available funding; notice of closing of new enrollment will be posted on the HFS website at least 14 days in advance (no new enrollees have been accepted into HBIS since 11/6/23); co-payments or cost sharing may be charged for certain services specified in rule (changed since 1st Notice from services listed in an HFS provider notice); emergency services are not subject to cost sharing; providers are responsible for collecting co-payments and may choose not to charge co-payments; and large public hospitals that have received payments from the HBIS program in excess of rates paid to other public hospitals shall be required to reimburse HFS in a method and amount determined by the Department.

Questions/requests for copies: Kathy Muse, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, 217-782-1233, HFS.Rules@illinois.gov

• DAY CARE

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted an amendment to Licensing Standards for Group Day Care Homes (89 IAC 408; proposed at 49 Ill Reg 4126) effective 7/1/25 at 49 Ill Reg 8928, that permanently adopt existing rules, originally scheduled to sunset on 7/1/25, allowing extended capacity group day care homes (licensed for a maximum of 16 children instead of 12) to include among their 4 additional children 2 toddlers or preschoolers age 30 months or older and 2 school-age children provided the main caregiver and two adult assistants are present at all times. Since 1st Notice, DCFS removed a proposed new sunset date of 7/1/27. Group day care homes are affected.

Questions/requests for copies: Tamara Bristow, DCFS, 406 E. Monroe St., Station #65-D, Springfield IL 62701, 217-524-1983, DCFS.Policy@illinois.gov

• OUTPATIENT PROCEDURES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Ambulatory Surgical Treatment Center Licensing Requirements (77 IAC 205; proposed at 49 Ill Reg 1958) effective 6/27/25 at 49 Ill Reg 9007, expanding the range of cardiac services that can be offered at an ASTC and aligning the Part with current statutory requirements for provisional licenses. The rulemaking allows therapeutic and interventional cardiac catheterization procedures (including coronary angioplasty and pacemaker implantation) that have been approved by the federal Centers

for Medicare and Medicaid Services to be performed in ASTCs that meet specified requirements for clinical staffing, accreditation, quality review, and emergency preparedness, and are located within 30 minutes driving time of a hospital that can perform cardiac surgery. (Previously, only diagnostic catheterization procedures could be performed at an ASTC.) A provisional license may be issued to an ASTC that does not substantially comply with the ASTC Licensing Act provided that the facility is working toward compliance and the health and safety of patients is not compromised. If an ASTC must suspend operations for more than one day due to a natural or human-caused disaster or business-related matters, it must notify DPH and the Health Facilities and Services Review Board (HFSRB) and cannot resume operations without DPH approval. The notification must include a projected date for resumption of operations. A facility that is closing permanently must notify DPH at least 90 days in advance of the closure and include provisions for preserving patient and personnel records. Since 1st Notice DPH has clarified various definitions and incorporated standards. ASTCs are affected by this rulemaking.

BIRTH CENTERS

DPH also repealed the Part titled Birth Center Demonstration Program Code (77 IAC 265; proposed at 49 Ill Reg 2924) effective 9/8/25 at 49 Ill Reg 9034. Birth centers no longer operate as a demonstration program under the Alternative Health Care Delivery Act and are now regulated under 77 IAC 264, which gives existing birth centers until 9/8/25 to become licensed under the Birth Center Licensing Act.

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Adopted Rules

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

COAL RESIDUALS

The POLLUTION CONTROL BOARD adopted amendments to Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments (35 IAC 845; proposed at 48 Ill Reg 13140) effective 6/26/25 at 49 Ill Reg 8977, that redefine a coal combustion residual (CCR) storage unit (changed since 1st Notice from CCR storage "pile") as any accumulation (previously, a temporary accumulation) of solid, non-flowing CCR placed on land in such a way as to limit releases of CCR into the environment. Any CCR storage unit that remains in place for more than a year will also be defined as a CCR landfill for purposes of federal regulations. For a unit that remains in place for a shorter period, the owner must provide photographs or other records showing that the unit was removed within the year-long timeframe. The Illinois Environmental Protection Agency must more closely evaluate quarterly reports of fugitive dust from CCR storage to determine whether the owner's fugitive dust

control plan needs to be revised. If complaints regarding fugitive dust are received in two consecutive quarters from an area of environmental justice concern (defined by IEPA as a census block with a minority and/or low-income population at least twice the statewide average), the dust control plan must be revised to include additional mitigation measures. Other provisions expand information required in a CCR owner/operator's annual consolidated report and require storage pads or liners, membranes and berms for CCR units to be inspected for cracks, holes, tears or other damage at least once a year. Owners of CCR storage units are affected.

Questions/requests for copies: Clerk's Office, PCB, 60 E. Van Buren St., Suite 630, Chicago IL 60605, 312-814-3621, don.brown@illinois.gov. Please reference Docket R20-19(A). Copies of Board opinions and orders can be downloaded at <https://pcb.illinois.gov/>.

• CAMPAIGN FINANCING

The STATE BOARD OF ELECTIONS adopted amendments to the Parts titled Campaign Financing (26 IAC 100; proposed at 49 Ill Reg 1642) and Practice and Procedure (26 IAC 125; proposed at 49 Ill Reg 1657) both effective 6/27/25 at 49 Ill Reg 8938 and 8953, that clarify enforcement procedures under Section 9-35 of the

Election Code and Section 20-160 of the Illinois Procurement Code. These rulemakings affect business entities with more than \$50,000 in aggregate State contracts or pending bids/proposals, who are obligated to register with SBEL before making contributions to any candidate or political committee. Amendments to Part 100 clarify how affected business entities ensure that their SBEL registration remains up to date, and under what circumstances the registration obligation ceases. Persons who are aware of an intentional, material or willful failure on the part of a business to disclose information to SBEL may file complaints with the Board, which may impose a civil penalty on the violator. Prescribed penalty amounts formerly in rule (up to \$5,000 per occurrence) are removed. The Part 125 rulemaking clarifies that complaints against business entities for failure to register with SBEL must be directed to the registered agent or chief executive officer of the business. Businesses that have or seek State contracts and make political contributions may be affected by these rulemakings.

Questions/requests for copies of the 2 SBEL rulemakings: H. Poyer, SBEL, 2329 S. MacArthur Blvd., Springfield IL 62704, 217-782-4141, GeneralCounsel@elections.il.gov

Second Notice

The following rulemaking was moved to Second Notice this week by the agency listed below, commencing the JCAR review period. This rulemaking will be considered at the August 13, 2025 meeting in Springfield. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning this rulemaking should be addressed to JCAR at jcar@ilga.gov.

DEPT OF PUBLIC HEALTH

Hospital Licensing Requirements (77 IAC 250; 49 Ill Reg 3443) proposed 3/21/25

Next JCAR Meeting: Wednesday, Aug. 13, 10:30 a.m.

Room C-1, Stratton Bldg., 401 S. Spring St., Springfield

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 Sally Turner

Representative Ryan Spain, Co-Chair

Representative Eva-Dina Delgado

Representative Jackie Haas

Representative Steven Reick

Representative Curtis Tarver, II

Representative Dave Vella

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