

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.

Proposed Rulemaking

▪ ABUSE INVESTIGATIONS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to the Part titled Office of Inspector General Investigations of Alleged Abuse, Neglect, or Financial Exploitation in State-Operated Facilities and Community Agencies (59 IAC 50; 48 Ill Reg 6197) that reflect Public Act 103-76 by adding “material obstruction of an investigation” to the list of findings that the DHS Office of Inspector General may issue. This term is defined as purposeful interference with an investigation of abuse, neglect or financial exploitation and includes, but is not limited to, withholding or altering documentation or recorded evidence; influencing, threatening, or impeding

witnesses or witness testimony; presenting untruthful information during an interview; or failing to cooperate with an OIG investigation. Additionally, if an employee of a community agency or State-operated facility is convicted of an offense that

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is factually predicated upon that employee presenting untruthful information during the course of the investigation, that offense also constitutes material obstruction of an investigation. Material obstruction does not include an employee invoking their Constitutional protections against self-incrimination

or lawful rights to union representation under a collective bargaining agreement. Employees shall also not be cited on the Health Care Worker Registry for material obstruction of an investigation merely for presenting untruthful information during an interview conducted by the OIG, unless the employee, prior to the interview, was provided with previous signed statements made during the course of the investigation. Community agencies serving persons with disabilities may be affected.

Questions/requests for copies/comments through 6/10/24: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217-785-9772, DHS.AdministrativeRules@illinois.gov

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 Rule

• IMMIGRANT HEALTHCARE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted emergency amendments to Special Eligibility Groups (89 IAC 118; 48 Ill Reg 6318) effective 4/11/24 for a maximum of 150 days. The emergency amendments renew the following enrollment and cost limitations that HFS has imposed on the Health Benefits for Immigrant Adults (HBIA) and Health Benefits for Immigrant Seniors (HBIS) programs: publishing notice of opening or closing of enrollment on the HFS website at least 14 days in advance of the action (HFS has closed new enrollment in HBIA since 6/30/23 and in HBIS since 11/6/23); authorizing providers to charge copayments of up to \$250 for inpatient hospital stays and 10% of the Department's rate for hospital outpatient and ambulatory surgical treatment center services, unless these services meet HFS' definition of emergency treatment; eliminating backdated medical coverage for 3 months prior to the application date; and requiring large public hospitals to reimburse the Department for HBIA and HBIS payments made in excess of the rates paid to non-public hospitals. Healthcare providers participating in these programs may be affected.

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

Adopted Rules

DISABILITY DETERMINATIONS

The DEPARTMENT OF HUMAN SERVICES adopted amendments to the Parts titled The Consultative Examination Process (89 IAC 840; proposed at 47 Ill Reg 17671, adopted at 48 Ill Reg 6234), Disability Case Development Process (89 IAC 843; proposed at 47 Ill Reg 17686, adopted at 48 Ill Reg 6249), Sequential Evaluation Process for the Determination of Disability (89 IAC 845; proposed at 47 Ill Reg 17702, adopted at 48 Ill Reg 6265), Qualifications of Medical Consultants (89 IAC 846; proposed at 47 Ill Reg

17712, adopted at 48 Ill Reg 6275), Medical Improvement Review Standard for Continuing Disability (89 IAC 850; proposed at 47 Ill Reg 17717, adopted at 48 Ill Reg 6280), Disability Hearings at the Reconsideration Level (89 IAC 853; proposed at 47 Ill Reg 17722, adopted at 48 Ill Reg 6285), Claimant Notification (89 IAC 855; proposed at 47 Ill Reg 17738, adopted at 48 Ill Reg 6301), Listing of Impairments (89 IAC 860; proposed at 47 Ill Reg 17745, adopted at 48 Ill Reg 6308) and The Disability Assistance Unit (89 IAC 870; proposed at 47 Ill Reg 17749, adopted at 48 Ill Reg 6312), all effective 4/12/24. These amendments

replace obsolete disability determination procedures used by the former Department of Rehabilitation Services with the Program Operations Manual System (POMS) used by the federal Social Security Administration to determine disability. Since 1st Notice, DHS has added citations to the applicable federal rules and the website address for POMS.

Questions/requests for copies of the 9 DHS rulemakings: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217-785-9772, DHS.AdministrativeRules@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 considered at the May 14, 2024 meeting in Springfield. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Professional Counselor and Clinical Professional Counselor Licensing Act (68 IAC 1375; 48 Ill Reg 1074) proposed 1/19/24

Behavior Analyst Licensing Act (68 IAC 1376; 48 Ill Reg 2313) proposed 2/16/24

Next JCAR Meeting: Tuesday, May 14, 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 Sue Rezin

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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