

ILLINOIS REGISTER

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
146.225	Amendment
146.650	Amendment
146.840	Amendment
146.910	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date: May 1, 2015
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: June 30, 2015
- 7) Date Filed with the Index Department:
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: Public Act 99-0002 gives the Department of Healthcare and Family Services the ability to adopt rules through emergency rulemaking in order to provide for the expeditious and timely implementation of the provisions of Public Act 99-0002. The adoption of this emergency rulemaking is deemed to be necessary for the public interest, safety, and welfare.
- 10) Complete Description of the Subject and Issues Involved: These emergency amendments are pursuant to Public Act 99-0002 that requires the Department to reduce reimbursement rates and payments paid to providers of certain services delivered on or after May 1, 2015 through June 30, 2015. Services exempt from the rate reductions include services paid to a provider that is operated by a unit of local government that provides the non-federal share of such services, inpatient and outpatient services delivered by a hospital, services mandated by a court order or services prohibited from a reduction under federal law or regulation.
- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any State mandate affecting units of local government.

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- 13) Information and questions regarding this amendment shall be directed to:

Mollie Zito
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

HFS.Rules@illinois.gov

The full text of the Emergency Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 146

SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section

146.100	General Description
146.105	Definitions
146.110	Participation Requirements
146.115	Records and Data Reporting Requirements
146.125	Covered Ambulatory Surgical Treatment Center Services
146.130	Reimbursement for Services

SUBPART B: SUPPORTIVE LIVING FACILITIES

Section

146.200	General Description
146.205	Definitions
146.210	Structural Requirements
146.215	SLF Participation Requirements
146.220	Resident Participation Requirements
146.225	Reimbursement for Medicaid Residents
<u>146.230</u>	<u>Services</u>
146.235	Staffing
146.240	Resident Contract
146.245	Assessment and Service Plan and Quarterly Evaluation
146.250	Resident Rights
146.255	Discharge
146.260	Grievance Procedure
146.265	Records and Reporting Requirements
146.270	Quality Assurance Plan
146.275	Monitoring
146.280	Non-Compliance Action
146.285	Voluntary Surrender of Certification
146.290	Geographic Groups
146.295	Emergency Contingency Plan

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- 146.300 Waivers
- 146.305 Reporting of Suspected Abuse, Neglect and Financial Exploitation
- 146.310 Facility Management of Resident Funds

SUBPART C: STATE HEMOPHILIA PROGRAM

- Section
- 146.400 Definitions
- 146.410 Patient Eligibility
- 146.420 Hemophilia Treatment Centers
- 146.430 Comprehensive Care Evaluation
- 146.440 Home Transfusion Arrangements
- 146.450 Obligations of the Department

SUBPART D: CHILDREN'S COMMUNITY-BASED HEALTH CARE CENTERS

- Section
- 146.500 General Description
- 146.510 Definitions
- 146.520 Participation Requirements
- 146.530 Records and Data Reporting Requirements
- 146.540 Covered Children's Community-Based Health Care Center Services
- 146.550 Reimbursement for Services
- 146.560 Individuals Eligible for Services Provided in a Children's Community-Based Health Care Center
- 146.570 Prior and Post Approval of Services

SUBPART E: SUPPORTIVE LIVING FACILITIES WITH DEMENTIA CARE UNITS

- Section
- 146.600 General Description
- 146.610 Structural Requirements
- 146.620 Participation Requirements
- 146.630 Resident Participation Requirements
- 146.640 Services
- 146.650 Reimbursement for Medicaid Residents
- EMERGENCY
- 146.660 Staffing
- 146.670 Assessment and Service Plan and Quarterly Evaluation
- 146.680 Monitoring
- 140.690 Reporting Requirements

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146.700 Resident Rights
146.710 Discharge

SUBPART F: BIRTH CENTERS

146.800 General Description
146.810 Participation Requirements
146.820 Record Requirements
146.830 Covered Birth Center Services
146.840 Reimbursement of Birth Center Services

EMERGENCY

SUBPART G: SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES

146.900 General Provisions
146.910 Reimbursement

EMERGENCY

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; new Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. 13146, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19914, effective October 30, 1998; amended at 23 Ill. Reg. 5819, effective April 30, 1999; emergency amendment at 23 Ill. Reg. 8256, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13663, effective November 1, 1999; amended at 24 Ill. Reg. 8353, effective June 1, 2000; emergency amendment at 26 Ill. Reg. 14882, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 2176, effective February 1, 2003; emergency amendment at 27 Ill. Reg. 10854, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18671, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 14214, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 852, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 4360, effective March 7, 2005; expedited correction at 29 Ill. Reg. 14127, effective March 7, 2005; amended at 29 Ill. Reg. 6967, effective May 1, 2005; amended at 29 Ill. Reg. 14987, effective September 30, 2005; amended at 30 Ill. Reg. 8845, effective May 1, 2006; amended at 31 Ill. Reg. 5589, effective April 1, 2007; emergency amendment at 31 Ill. Reg. 5876, effective

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April 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11681, effective August 1, 2007; amended at 33 Ill. Reg. 11803, effective August 1, 2009; emergency amendment at 36 Ill. Reg. 6751, effective April 13, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13885, effective August 27, 2012; amended at 37 Ill. Reg. 17624, effective October 28, 2013; expedited correction at 38 Ill. Reg. 4518, effective October 28, 2013; amended at 38 Ill. Reg. 13255, effective June 11, 2014; amended at 38 Ill. Reg. 13893, effective June 23, 2014; amended at 38 Ill. Reg. 15152, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15713, effective July 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 23768, effective December 2, 2014, emergency amendment at 39 Ill. Reg. _____, effective _____, for a maximum of 150 days.

SUBPART B: SUPPORTIVE LIVING FACILITIES

Section 146.225 Reimbursement for Medicaid Residents
EMERGENCY

Supportive Living Programs (SLPs) shall accept the reimbursement provided in this Section as payment in full for all services provided to Medicaid residents.

- a) The Department shall establish its portion of the reimbursement for Medicaid residents by calculating 60 percent of the weighted average (weighted by Medicaid patient days) nursing facility rates for the geographic grouping as defined in Section 146.290. Each SLP shall be paid 60 percent of the weighted average nursing facility geographic group rate, based upon the nursing facility geographic group in which it is located. The rates paid to SLPs shall be updated semi-annually on April 1 and on October 1 to assure that the rates coincide with 60 percent of weighted average nursing facility geographic group rates. Notwithstanding the provisions of this subsection, the supportive living program rates shall remain at the level in effect on April 30, 2011.
 - 1) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 153.126, and subject to federal CMS approval, as of July 1, 2014, supportive living program rates shall no longer be 60 percent of the weighted average nursing facility rates for the geographic group rate, based upon the nursing facility geographic group in which it is located.
 - 2) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 153.126, and subject to federal CMS approval, for dates of service on or after July 1, 2014, rates effective on June 30, 2014 shall be increased 8.85 percent.

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- 3) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 153.126, and subject to federal CMS approval of the imposition of the assessment in 89 Ill. Adm. Code 140.86, for dates of service on or after July 1, 2014, rates effective July 1, 2014 shall be increased an additional 9.09 percent.
- 4) Notwithstanding any provisions set forth in 89 Ill. Adm. Code 153.126, for services delivered on or after May 1, 2015 through June 30, 2015, supportive living facilities shall have their reimbursement rates reduced by 12.6% from the rates that were in effect on April 30, 2015.
- b) The payment rate received by the SLP from the Department for services, with the exception of meals, provided in accordance with Section 146.230 shall constitute the full and complete charge for services rendered. Additional payment, other than patient credits authorized by the Department, may not be accepted. Meals are included in the room and board amount paid by the resident.
- c) Single Occupancy: Each Medicaid resident of an SLP shall be allotted a minimum of \$90 per month as a deduction from his or her income as a protected amount for personal use. The SLP may charge each Medicaid resident no more than the current SSI rate for a single individual less a minimum of \$90 for room and board charges. Any income remaining after deduction of the protected minimum of \$90 and room and board charges shall be applied first towards medical expenses not covered under the Department's Medical Assistance Program. Any income remaining after that shall be applied to the charges for SLP services paid by the Department.
- d) Double Occupancy: In the event a Medicaid eligible resident chooses to share an apartment, the Medicaid resident of an SLP shall be allotted a minimum of \$90 per month as a deduction from his or her income as a protected amount for personal use. The SLP may charge each Medicaid resident no more than the resident's share of the current SSI rate for a couple less a minimum of \$90 for room and board charges. The room and board rate for two Medicaid eligible individuals sharing an apartment cannot exceed the SSI rate for a married couple even if the two individuals sharing an apartment are unrelated. Any income of an individual remaining after deduction of the protected minimum of \$90 and room and board charges shall be applied first towards that individual's medical expenses not covered under the Department's Medical Assistance Program. Any income of an individual remaining after that shall be applied to that individual's charges for SLP services paid by the Department. If one, or both, of the individuals sharing an apartment is not Medicaid eligible, the SLP may negotiate its own rate with the non-Medicaid individual or individuals.

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- e) The room and board charge for Medicaid residents shall only be increased when the SSI amount is increased. Any room and board charge increase shall not exceed the amount of the SSI increase.

- f) Payment shall be made by the Department for up to 30 days per State fiscal year during a Medicaid resident's temporary absence from the SLP when the absence is due to situations such as hospitalizations or vacations. The resident shall continue to be responsible for room and board charges during any absence. Involuntary discharge criteria relating to temporary absence are found at Section 146.255(b) and (d)(7). Nursing facilities that have a distinct part certified as an SLP shall consider converted beds in the nursing facility's licensed capacity when calculating the 93 percent occupancy level for bed reserve payments pursuant to 89 Ill. Adm. Code 140.523.
 - 1) The day a resident is transferred to the hospital is the first day of the temporary absence.
 - 2) For all other temporary absences, except a long-term care admission, the day after resident leaves the SLP is the first day of the temporary absence.
 - 3) The day before resident returns to the SLP is the last day of the temporary absence.
 - 4) The Department does not pay for temporary absence due to admission to a long-term care facility. In this instance, an SLP shall discharge the resident from the Department's database. An SLP may choose to hold an apartment while a resident is in a long-term care facility.
 - 5) By agreement between the SLP and a resident, an SLP may continue to hold an apartment when a resident has exceeded the 30 days payable by the Department.

(Source: Emergency amended at 39 Ill. Reg. _____, effective _____ for a maximum of 150 days)

SUBPART E: SUPPORTIVE LIVING FACILITIES WITH DEMENTIA CARE UNITS

Section 146.650 Reimbursement for Medicaid Residents

EMERGENCY

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The Department shall establish its portion of the reimbursement for Medicaid residents residing in the dementia care unit by calculating 72 percent of the weighted average (weighted by Medicaid patient days), for the geographic group in which the Supportive Living Program (SLP) is located (see Section 146.290), paid for Medicaid-eligible nursing facility residents residing in Department of Public Health certified Alzheimer's special care units pursuant to 77 Ill. Adm. Code 300.163.

- a) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 153.126, and subject to federal CMS approval, as of July 1, 2014, rates for the supportive living programs with residents residing in a dementia care unit shall no longer be 72 percent of the weighted average nursing facility rates for the geographic group rate, based upon the nursing facility geographic group in which it is located.
- b) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 153.126, and subject to federal CMS approval, for dates of service on or after July 1, 2014, rates effective June 30, 2014 shall be increased 8.85 percent.
- c) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 153.126, and subject to federal CMS approval of the imposition of the assessment in 89 Ill. Adm. Code 140.86, for dates of service on or after July 1, 2014, rates effective July 1, 2014 shall be increased an additional 9.09 percent.
- d) Notwithstanding any provisions set forth in 89 Ill. Adm. Code 153.126, for services delivered on or after May 1, 2015 through June 30, 2015, supportive living facilities shall have their reimbursement rates reduced by 12.6% from the rates that were in effect on April 30, 2015.

(Source: Emergency amended at 39 Ill. Reg. _____, effective _____ for a maximum of 150 days)

Section 146.840 Reimbursement of Birth Center Services

EMERGENCY

- a) Facility services provided by a birth center located in Cook County will be reimbursed at the lower of billed charges or 75 percent of the average facility payment rate made to a hospital located in Cook County for an uncomplicated vaginal birth.
- b) Facility services provided by a birth center located outside of Cook County will be reimbursed at the lower of billed charges or 75 percent of the statewide

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average facility payment rate made to a hospital located outside of Cook County for an uncomplicated vaginal birth.

- c) Observation services will be reimbursed at the lower of billed charges or at 75 percent of the rate established by the Department for the number of hours of observation billed pursuant to 89 Ill. Adm. Code 148.140(b)(1)(D) as reflected at <http://www2.illinois.gov/hfs/PublicInvolvement/hospitalratereform/Pages/Rules.aspx> through dates of service on June 30, 2014. Effective for dates of service on or after July 1, 2014, observation services will be reimbursed at the lower of billed charges or \$53.56 for 1 hour or more.
- d) Transfer fees for a birth center located in Cook County will be reimbursed at the lower of billed charges or 15 percent of the average facility payment rate made to a hospital located in Cook County for an uncomplicated vaginal birth.
- e) Transfer fees for a birth center located outside of Cook County will be reimbursed at the lower of billed charges or 15 percent of the statewide average facility payment rate made to a hospital located outside of Cook County for an uncomplicated vaginal birth.
- f) Notwithstanding any provisions set forth in this Section, reimbursement rates for birth center services shall be reduced by 16.75% from the rates that were otherwise in effect on April 30, 2015, for services delivered on or after May 1, 2015 through June 30, 2015.

(Source: Emergency amended at 39 Ill. Reg. _____, effective _____ for a maximum of 150 days)

Section 146.910 Reimbursement

EMERGENCY

- a) Facilities licensed under Specialized Mental Health Rehabilitation Act of 2013 shall be reimbursed at:
 - 1) the rate in effect on June 30, 2014, less \$7.07 for each facility previously licensed under the Nursing Home Care Act on June 30, 2013; or
 - 2) the rate in effect on June 30, 2013 for each facility licensed under the Specialized Mental Health Rehabilitation Act on June 30, 2013.

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- b) Any adjustment in the support component or the capital component for facilities licensed by the Department of Public Health under the Nursing Home Care Act shall apply equally to facilities licensed by the Department of Public Health under the Specialized Mental Health Rehabilitation Act of 2013.
- c) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 153, facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013 shall receive a payment in the amount of \$29.43 per licensed bed, per day, for the period beginning June 1, 2014 and ending June 30, 2014.
- d) Notwithstanding any provisions set forth in 89 Ill. Adm. Code 153, for services delivered on or after May 1, 2015 through June 30, 2015, facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013, shall have their reimbursement rates reduced by 12.6% from the rates in effect on April 30, 2015.

(Source: Emergency amended at 39 Ill. Reg. _____, effective _____ for a maximum of 150 days)