

ILLINOIS REGISTER

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Long Term Care Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 153
- 3) Section Number: 153.126                      Proposed Action: 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 this emergency amendment is 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 Subjects and Issues Involved: This emergency amendment is 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 proposed rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objectives: This rulemaking does affect units of local government. It will have an impact on county government entities that own or operate nursing facilities enrolled in the Medical Assistance Program.
- 13) Information and questions regarding this emergency amendment shall be directed to:

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 153 LONG TERM CARE REIMBURSEMENT CHANGES

Section

- 153.100 Reimbursement for Long Term Care Services
- 153.125 Long Term Care Facility Rate Adjustments
- 153.126 Long Term Care Facility Medicaid Per Diem Adjustments
- EMERGENCY**
- 153.150 Quality Assurance Review (Repealed)

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 and VI and 12-13].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16285, effective August 28, 1998; amended at 22 Ill. Reg. 19872, effective October 30, 1998; emergency amendment at 23 Ill. Reg. 8229, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12794, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13638, effective November 1, 1999; emergency amendment at 24 Ill. Reg. 10421, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15071, effective October 1, 2000; emergency amendment at 25 Ill. Reg. 8867, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14952, effective November 1, 2001; emergency amendment at 26 Ill. Reg. 6003, effective April 11, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 12791, effective August 9, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11087, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17817, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 11088, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18880, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 10218,

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effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005; amended at 29 Ill. Reg. 12452, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 616, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified pursuant to the Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 7817, effective April 7, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10417, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11853, effective July 1, 2006, for a maximum of 150 days; emergency expired November 27, 2006; amended at 30 Ill. Reg. 14315, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 18779, effective November 28, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 6954, effective April 26, 2007; emergency amendment at 32 Ill. Reg. 535, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 4105, effective March 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 7761, effective May 5, 2008; amended at 32 Ill. Reg. 9972, effective June 27, 2008; amended at 33 Ill. Reg. 9347, effective July 1, 2009; emergency amendment at 34 Ill. Reg. 17462, effective November 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 6171, effective March 28, 2011; amended at 35 Ill. Reg. 19524, effective December 1, 2011; emergency amendment at 36 Ill. Reg. 10416, effective July 1, 2012 through June 30, 2013; amended at 36 Ill. Reg. 17405, effective December 1, 2012; amended at 37 Ill. Reg. 10529, effective June 27, 2013; emergency amendment at 38 Ill. Reg. 15732, effective July 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 23799, effective December 2, 2014; emergency amendment at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, for a maximum of 150 days.

**Section 153.126 Long Term Care Facility Medicaid Per Diem Adjustments**

**EMERGENCY**

- a) Notwithstanding the provisions set forth in Section 153.100, the socio-development component for facilities that are federally defined as Institutions for Mental Disease (see 89 Ill. Adm. Code 145.30) shall be increased by 253 percent beginning with services provided on and after March 1, 2008.
- b) Notwithstanding the provisions set forth in Section 153.100, daily residential rates effective on March 1, 2008, for intermediate care facilities for persons with developmental disabilities (ICF/DD), including skilled nursing facilities for persons under 22 years of age (SNF/Ped), for which a patient contribution is required, shall be increased by 2.2 percent.

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- c) Notwithstanding the provisions set forth in Section 153.100, developmental training rates effective on March 1, 2008 shall be increased by 2.5 percent.
- d) Notwithstanding the provisions set forth in Sections 153.100 and 153.125, for dates of services provided on or after July 1, 2012, the \$10 per day per individual payment for individuals with developmental disabilities in nursing facilities, described in 89 Ill. Adm. Code 147.350, shall be eliminated.
- e) Notwithstanding the provisions set forth in Sections 153.100 and 153.125, on or after July 1, 2012, nursing facilities not designated as Institutions for Mental Disease shall have rates effective May 1, 2011 (see Section 153.125) adjusted as follows:
  - 1) Individual nursing rates for residents classified in Resource Utilization Groups IV (RUG-IV) PA1, PA2, BA1 and BA2, during the quarter ending March 31, 2012, shall be reduced by 10 percent;
  - 2) Individual nursing rates for residents classified in all other RUG-IV groups shall be reduced by 1.0 percent; and
  - 3) Facility rates for the support and capital components shall be reduced by 1.7 percent.
- f) Notwithstanding the provisions set forth in Sections 153.100 and 153.125, on or after July 1, 2012, nursing facilities designated as Institutions for Mental Disease and facilities licensed under the Specialized Mental Health Rehabilitation Act shall have the nursing, socio-development, capital and support components of their reimbursement rate effective May 1, 2011 (see Section 153.125), reduced in total by 2.7 percent.
- g) Notwithstanding the provisions set forth in Sections 153.100 and 153.125, on or after July 1, 2012, supported living facilities, as defined in 89 Ill. Adm. Code 146.205, shall have rates reduced by 2.7 percent.
- h) Notwithstanding the provisions set forth in Sections 153.100 and 153.125 and 89 Ill. Adm. Code 140.560 and 140.561, for services provided on or after July 1, 2014, the support component of a nursing facility's rate for facilities licensed under the Nursing Home Care Act as skilled or intermediate care facilities (SNF/ICF) shall be the rate in effect on June 30, 2014, increased by 8.17%.

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- i) Long Term Care Facilities for Persons under 22 Years of Age Serving Clinically Complex Residents.
  - 1) Effective for dates of service on or after July 1, 2013, long term care facilities for persons under 22 years of age serving clinically complex residents means facilities licensed by the Department of Public Health as long term care facilities for persons under 22 years of age that serve severely and chronically ill pediatric patients requiring exceptional care, if the facility has 30% or more of its patients receiving ventilator care.
  - 2) For dates of services starting July 1, 2013, long term care facilities for persons under 22 years of age serving clinically complex residents shall receive Medicaid reimbursement on 30-day expedited schedule.
  - 3) Effective for dates of service on or after July 1, 2014, for purposes of this Section, a person under 22 years of age is considered clinically complex if the person requires at least one of the following medical services:
    - A) Tracheostomy care with dependence on mechanical ventilation for a minimum of six hours each day.
    - B) Tracheostomy care requiring suctioning at least every six hours, room air mist or oxygen as needed, and dependence on one of the treatment procedures listed under subsection (i)(4), excluding the procedure listed in subsection (i)(4)(B).
    - C) Total parenteral nutrition or other intravenous nutritional support and one of the treatment procedures listed under subsection (i)(4).
  - 4) The following treatment procedures apply to the conditions in subsections (i)(3)(B) and (C):
    - A) Intermittent suctioning at least every eight hours and room air mist or oxygen as needed.
    - B) Continuous intravenous therapy, including administration of therapeutic agents necessary for hydration or of intravenous pharmaceuticals; or intravenous pharmaceutical administration of more than one agent via a peripheral or central line, without continuous infusion.

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- C) Peritoneal dialysis treatments requiring at least four exchanges every 24 hours.
- D) Tube feeding via nasogastric or gastrostomy tube.
- E) Other medical technologies required continuously, which in the opinion of the attending physician require the services of a professional nurse.

5) Reimbursement

- A) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 140, 144 and 147, and subject to federal approval of changes to the Title XIX State Plan, for dates of service starting July 1, 2014 through implementation of a new reimbursement system, long term care facilities for persons under 22 years of age serving clinically complex residents shall receive a per diem rate of \$304 for clinically complex residents.
- B) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 140, 144 and 147, and subject to federal approval of changes to the Title XIX State Plan, for dates of service starting July 1, 2014, long term care facilities for persons under 22 years of age serving clinically complex residents that have a policy documenting their method of routine assessment of a resident's potential for being weaned from a ventilator, with interventions implemented noted in the resident's record, shall receive a per diem rate of \$669 for clinically complex residents on a ventilator.

j) Notwithstanding any provisions set forth in 89 Ill. Adm. Code Parts 147 and 153, for services delivered on or after May 1, 2015 through June 30, 2015, skilled nursing facilities licensed under the Nursing Home Care Act shall have their reimbursement rates reduced by 12.6% from the rates in effect on April 30, 2015, except that such adjustment of the reimbursement rate shall not apply to services paid to a provider that is operated by a unit of local government that provides the non-federal share of such services.

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