

ILLINOIS REGISTER

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
140.445	Amendment
140.523	Amendment
140.539	Amendment
140.570	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: This amendment for 140.445, regarding benchmark pricing for generic drugs, changes the methodology from Suggested Wholesale Price (SWP) – 25% to Wholesale Acquisition Cost (WAC) + 1%. This change is being made as a result of feedback from the federal Centers for Medicare and Medicaid Services (CMS) regarding the Department’s State Plan Amendment that proposed a change from Average Wholesale Price (AWP) – 25% to Suggested Wholesale Price (SWP) – 25% for generic drugs.

In addition, pending adoption of the FY 2013 Budget the Department must meet federal public notice requirements regarding any modifications of Medicaid rate methodologies for institutional providers (nursing facilities and hospitals). Thus, the Department is proposing amendments that eliminate bed hold payments for adults in nursing facilities and ICF/DDs for an annual reduction of \$5.4 million, lowering from 11% to 4% for the rate of return on capital investments for nursing facilities for an annual reduction of \$71 million, removing the nurses aid training component from ICF/DDs but adding a standard amount to individual providers in order to reduce administrative costs.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

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<u>Section Numbers:</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.462	Amendment	35 Ill. Reg. 11126; July 15, 2011
140.1001	Amendment	36 Ill. Reg. ____; May 25, 2012

- 11) 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.
- 12) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

217/782-1233

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded pharmacies, hospital providers, nursing facilities, skilled nursing facilities, and intermediate nursing facilities.
 - B) Reporting, bookkeeping or other procedures required for compliance: Preparation, documentation, and submission of facility's cost report.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on Which this Rulemaking Was Summarized: January 2012

The full text of the Proposed Amendments is 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 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Persons Confined or Detained by the Criminal Justice System

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination or Revocation on Persons Associated with Vendor

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- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
- 140.20 Submittal of Claims
- 140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
- 140.22 Magnetic Tape Billings (Repealed)
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of Sanctioned Entities
- 140.35 False Reporting and Other Fraudulent Activities
- 140.40 Prior Approval for Medical Services or Items
- 140.41 Prior Approval in Cases of Emergency
- 140.42 Limitation on Prior Approval
- 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
- 140.44 Withholding of Payments Due to Fraud or Misrepresentation
- 140.55 Recipient Eligibility Verification (REV) System
- 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
- 140.72 Drug Manual (Recodified)
- 140.73 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

- Section
- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund
- 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
- 140.95 Hospital Services Trust Fund
- 140.96 General Requirements (Recodified)
- 140.97 Special Requirements (Recodified)

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- 140.98 Covered Hospital Services (Recodified)
- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)

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140.398 Hearings (Recodified)

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140.400 Payment to Practitioners
140.402 Copayments for Noninstitutional Medical Services
140.403 Telehealth Services
140.405 SeniorCare Pharmaceutical Benefit (Repealed)
140.410 Physicians' Services
140.411 Covered Services By Physicians
140.412 Services Not Covered By Physicians
140.413 Limitation on Physician Services
140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
140.416 Optometric Services and Materials
140.417 Limitations on Optometric Services
140.418 Department of Corrections Laboratory
140.420 Dental Services
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140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items –
Dentists (Repealed)
140.425 Podiatry Services
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140.429 Limitations on Chiropractic Services (Repealed)
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140.431 Services Not Covered by Independent Clinical Laboratories
140.432 Limitations on Independent Clinical Laboratory Services
140.433 Payment for Clinical Laboratory Services
140.434 Record Requirements for Independent Clinical Laboratories
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140.436 Limitations on Advanced Practice Nurse Services
140.438 Diagnostic Imaging Services
140.440 Pharmacy Services
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140.443 Filling of Prescriptions
140.444 Compounded Prescriptions

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- 140.448 Returned Pharmacy Items
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- 140.452 Mental Health Services
- 140.453 Definitions
- 140.454 Types of Mental Health Services
- 140.455 Payment for Mental Health Services
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- 140.459 Payment for Therapy Services
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- 140.461 Clinic Participation, Data and Certification Requirements
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- 140.471 Description of Home Health Services
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- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
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- 140.483 Limitations on Family Planning Services

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- 140.485 Healthy Kids Program
- 140.486 Illinois Healthy Women
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- 140.506 Provider Voluntary Withdrawal
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- 140.860 County Owned or Operated Nursing Facilities
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- 140.880 Provider Qualifications (Repealed)
- 140.885 Provider Responsibilities (Repealed)
- 140.890 Payment Methodology (Repealed)
- 140.895 Contract Monitoring (Repealed)
- 140.896 Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
- 140.900 Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
- 140.901 Functional Areas of Needs (Recodified)
- 140.902 Service Needs (Recodified)
- 140.903 Definitions (Recodified)
- 140.904 Times and Staff Levels (Repealed)
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- 140.908 Times and Staff Levels (Recodified)
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SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

- Section
- 140.920 General Description
- 140.922 Covered Services
- 140.924 Maternal and Child Health Provider Participation Requirements
- 140.926 Client Eligibility (Repealed)
- 140.928 Client Enrollment and Program Components (Repealed)
- 140.930 Reimbursement
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SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section

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- 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
- 140.942 Definition of Terms (Recodified)
- 140.944 Notification of Negotiations (Recodified)
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- 140.948 Negotiation Procedures (Recodified)
- 140.950 Factors Considered in Awarding ICARE Contracts (Recodified)
- 140.952 Closing an ICARE Area (Recodified)
- 140.954 Administrative Review (Recodified)
- 140.956 Payments to Contracting Hospitals (Recodified)
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- 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
- 140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
- 140.964 Contract Monitoring (Recodified)
- 140.966 Transfer of Recipients (Recodified)
- 140.968 Validity of Contracts (Recodified)
- 140.970 Termination of ICARE Contracts (Recodified)
- 140.972 Hospital Services Procurement Advisory Board (Recodified)
- 140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
- 140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

- Section
- 140.990 Primary Care Case Management Program
- 140.991 Primary Care Provider Participation Requirements
- 140.992 Populations Eligible to Participate in the Primary Care Case Management Program
- 140.993 Care Management Fees
- 140.994 Panel Size and Affiliated Providers
- 140.995 Mandatory Enrollment
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SUBPART J: ALTERNATE PAYEE PARTICIPATION

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Section

- 140.1001 Registration Conditions for Alternate Payees
- 140.1002 Participation Requirements for Alternate Payees
- 140.1003 Recovery of Money for Alternate Payees
- 140.1004 Conditional Registration for Alternate Payees
- 140.1005 Revocation of an Alternate Payee

SUBPART K: MANDATORY MCO ENROLLMENT

- 140.1010 Mandatory Enrollment in MCOs

SUBPART L: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

Section

- 140.1300 Definitions
 - 140.1310 Recovery of Money
 - 140.1320 Penalties
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- 140.TABLE A Medichex Recommended Screening Procedures (Repealed)
 - 140.TABLE B Geographic Areas
 - 140.TABLE C Capital Cost Areas
 - 140.TABLE D Schedule of Dental Procedures
 - 140.TABLE E Time Limits for Processing of Prior Approval Requests
 - 140.TABLE F Podiatry Service Schedule
 - 140.TABLE G Travel Distance Standards
 - 140.TABLE H Areas of Major Life Activity
 - 140.TABLE I Staff Time and Allocation for Training Programs (Recodified)
 - 140.TABLE J HSA Grouping (Repealed)
 - 140.TABLE K Services Qualifying for 10% Add-On (Repealed)
 - 140.TABLE L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
 - 140.TABLE M Enhanced Rates for Maternal and Child Health Provider Services

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: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508,

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effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at

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10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections

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140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective

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December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252,

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effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514,

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effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796,

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effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. 7545, effective May 7, 2012; amended at 36 Ill. Reg. _____, effective _____.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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Section 140.445 Legend Prescription Items (Not Compounded)

Effective June 1, 2012, for legend (prescription) drugs, the Department shall pay the lower of:

- a) the pharmacy's usual and customary charge to the general public; or
- b) the Department's maximum price plus the established dispensing fee of \$6.35 for generic drugs and \$3.40 for brand name drugs. If the generic dispensing rate during the quarter ending June 30, 2014 is not 2% higher than the generic dispensing rate during the quarter ending December 31, 2011, then effective January 1, 2015, the dispensing fee shall be \$4.60 for generic drugs and \$3.40 for brand name drugs.
 - 1) For generic drugs, the Department's maximum price is calculated as the lowest of:
 - A) Wholesale Acquisition Cost (WAC) + 1%; or
 - B) the Federal upper limit as established under section 1927(e)(4) of the Social Security Act (42 USC 1396r-8(e)(4)); or
 - C) the State upper limit.
 - 2) For brand name drugs, the Department's maximum price is calculated as the lowest of:
 - A) WAC plus 1%; or
 - B) the State upper limit.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 140.523 Bed Reserves

- a) Effective for dates of service on or after July 1, 2012, no payments for bed reserves will be made to nursing facilities.

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- b) ICF/MR Facilities (including ICF/DD and SNF/Ped licenses)
 - 1) All bed reserves must:
 - A) be authorized by the interdisciplinary team (IDT); and
 - B) be limited to residents who desire to return to the same facility.
 - C) be for persons who are under 21 years of age.
 - 2) There is no minimum occupancy level ICF/MR facilities must meet for receiving bed reserve payments.
 - 3) In no facility may the number of vacant beds be less than the number of beds identified for residents having an approved bed reserve. The number of vacant beds in the facility must be equal to or greater than the number of residents allowed bed reserve.
 - 4) Payment may be approved for hospitalization for a period not to exceed 45 consecutive days. The day the resident is transferred to the hospital is the first day of the reserve bed period. Payment for approved bed reserves for hospitalization is a daily rate at:
 - A) 100 percent of a facility's current Medicaid per diem for the first ten days of an admission to a hospital;
 - B) 75 percent of a facility's current Medicaid per diem for days 11 through 30 of the admission;

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- C) 50 percent of a facility's current Medicaid per diem for days 31 to 45 of the admission.
- 5) Payment may be approved for therapeutic visits which have been indicated by the IDT as therapeutically beneficial. There is no limitation on the bed reserve days for such approved therapeutic visits. The day after the resident leaves the facility is the first day of the bed reserve period. Payment for approved bed reserves for therapeutic visits is a daily rate at:
 - A) 100 percent of a facility's current Medicaid per diem for a period not to exceed ten days per State fiscal year;
 - B) 75 percent of a facility's current Medicaid per diem for a period which exceeds ten days per State fiscal year.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART E: GROUP CARE

Section 140.539 Reimbursement for Basic Nursing Assistant, Training and Nursing Assistant Competency Evaluation

- a) Training Reimbursement
 - 1) Nursing facilities shall be reimbursed for the reasonable costs of assistant and aide training. Upon the individual's successful completion of a course which has been approved by the Department of Public Health (77 Ill. Adm. Code 395.110), the facility may claim reimbursement for the following costs, provided that they are actually incurred:
 - A) tuition, up to the prevailing community college rate in the health service area for a six credit hour course;
 - B) instructional materials, up to \$25.00; and
 - C) salary and fringe benefits (fringe benefits are payroll taxes, unemployment insurance, worker's compensation, health insurance and meals if provided) up to the prevailing entry level for the health service area.

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- 2) The Department will reimburse for actual approved hours up to 130 hours.
 - 3) Facilities shall also receive an additional factor of five percent of the total claim to recognize costs for those who do not successfully complete the course.
 - 4) The Department shall reimburse on a pro rata basis according to the percentage of Medicaid residents in the facility at the time the request for reimbursement is submitted to the Department.
 - 5) Successful completion of a course by each individual for whom reimbursement is being requested shall be verified through the Department of Public Health Nurse Aide Registry. In the event that an individual's name does not appear on the Registry within three months after the Department's receipt of the reimbursement request, the Department reserves the right to request documentation that shows proof of:
 - A) submittal of the individual's name for entry on the Nurse Aide Registry (for example, a copy of the notification to the Department of Public Health), if applicable, and
 - B) successful completion of the course by the individual (for example, an instructor signed attendance form or other instructor certification).
 - 6) No individual who is employed by, or who has received an offer of employment from, a facility on the date on which the individual begins a Basic Nursing Assistant training program may be charged for any portion of the program (including any fees for textbooks or other required course materials). This provision applies whether or not the facility requests Medicaid reimbursement for the training, the individual fails the competency exam or the individual subsequently leaves employment.
- b) Basic Nursing Assistant Competency Evaluation
- 1) Nursing facilities shall be reimbursed for the reasonable costs for basic nursing assistant competency evaluations. Only evaluations approved by the Department of Public Health are reimbursable. The facility may claim reimbursement for the cost of each approved competency evaluation successfully completed with a passing grade.

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- 2) Payment will not be made under this Section for costs incurred in administering tests not approved by the Department of Public Health, or for any additional tests administered by the facility during or subsequent to basic nursing assistant training.
- 3) Payment will be made for all competency evaluations successfully completed with a passing grade after October 1, 1989.
- 4) The maximum reimbursable cost per competency evaluation successfully completed with a passing grade is the current fee charged by the Department of Public Health approved evaluation service. The Department will reimburse on a pro rata basis according to the percentage of Medicaid residents in the facility at the time the request for reimbursement is submitted to the Department. The Department will not pay any other costs associated with the evaluation process.
- 5) No payment will be made for any competency evaluation in which a failing grade is received for any part of the evaluation. An individual must pass both the demonstration of manual skills and written components of the evaluation before reimbursement may be claimed.
- 6) Passage of the competency evaluation for each individual for whom reimbursement is being requested shall be verified through the Department of Public Health Nurse Aide Registry. In the event that an individual's name does not appear on the Registry, the Department reserves the right to request documentation of such passage before authorizing payment.
- 7) Facilities shall receive an additional factor of five percent of the total claim to recognize costs for those who do not successfully pass the evaluation.
- 8) No individual who is employed by, or who has received an offer of employment from, a facility on the date on which the individual begins a basic nursing assistant program may be charged for any costs associated with competency evaluation. This provision applies whether or not the facility requests Medicaid reimbursement for the competency evaluation, the individual fails the competency evaluation or the individual subsequently leaves employment.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 140.570 Capital Rate Component Determination

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- a) Capital rates for all long term care facilities – except State Institutions, Specialized Living Centers and campus facilities, shall be reimbursed in the manner described in Sections 140.570 through 140.573. Capital rates for Specialized Living Centers are set forth in 140.579. Campus facilities are reimbursed in accordance with 140.583.
- b) The terms used in Sections 140.570 through 140.574 are defined as follows.
 - 1) "Arm's-length transaction" means a transaction between a buyer and a seller both free to act, each seeking his own best economic interest. A transaction between related parties as defined in Section 140.537 is not considered to be an arm's-length transaction.
 - 2) "Base Year" refers to the weighted average year of investment in the actual construction of the building. The Base Year is determined using the components of the building cost, which are included in the Original Building Base Cost, and the corresponding years of acquisition or construction. The year of each component of the total investment is multiplied by the cost of each year's investment. The sum of these products is then divided by the total Original Building Base Cost to yield an average year of construction. Any fractional portion of the Base Year derived from this calculation will be truncated. The Base Year will not change due to sale or lease of the building subsequent to January 1, 1978.
 - 3) "Capital Days" are used to convert all capital items to per diem amounts unless otherwise specified. If a facility's occupancy rate is above 93 percent, then capital days shall be equal to the actual patient days. If occupancy is below 93 percent, then 93 percent of available bed days (the number of licensed beds multiplied by the number of calendar days in a period) shall be the capital days.
 - 4) Building Basis:
 - A) "Original Building Base Cost" means either the cost of construction or the cost of the latest purchase of the building in an arm's-length transaction prior to January 1, 1978. The allowable cost of subsequent improvements to the building will be included in the original building base cost. The original building base cost will not change due to sales or leases of the facility after January 1,

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1978. In the case of a nursing home building constructed after January 1, 1978, the allowable construction cost plus the cost of subsequent improvements will be the original building base cost.

- B) If a portion of the building is vacant or is used for functions other than a nursing home, then a portion of the building's original building base cost will not be used in the rate calculation. This cost allocation will be based upon the proportion of the total square feet in the building being used for nursing home functions.
- 5) "Rate of Return" will be 4.0 percent regardless of base year, for dates of service on or after July 1, 2012.
- 6) "Means Construction Index" means the index of changes in construction costs from year-to-year developed from the annual publication Means Building Construction Cost data as published by R.S. Means Company, Inc.
- 7) "Means New Construction Cost Per Square Foot" is defined as the costs published by the R.S. Means Company, Inc. Data will come from the most recent edition of the Means Square Foot Costs publication. The cost used per square foot for new construction is based upon nursing home construction projections using 40,000 square foot category with face brick with concrete block back-up and steel joists. The Means New Construction Cost Per Square Foot will be adjusted where necessary to ensure an increase of at least a three percent from the previous year but no more than a seven percent increase.
- 8) "Square Feet Per Bed" is defined as 316 square feet per bed. This was the average for existing long term care facilities in Illinois.
- 9) "Location". The long term care facilities will be separated into one of the following areas:
- Northeast area – HSAs 6, 7, 8, 9
- Downstate area – HSAs 1, 2, 3, 4, 5, 10, 11
- 10) "Uniform Building Value" is calculated using the following steps:

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- A) The Means New Construction Cost Per Square Foot is multiplied by 316 square feet per bed to obtain a preliminary cost per bed. For example, \$68.65 cost per square foot times 316 equals a \$21,693 preliminary cost per bed.
- B) The preliminary cost per bed is multiplied by an adjustment factor to obtain the revised cost per bed for new construction. The adjustment factor is 1.30 for the northeast area and 1.19 for the downstate area. For example, a \$21,693 preliminary cost per bed times the 1.30 factor equals a \$28,200 revised cost per bed for the northeast area.
- C) The revised cost per bed for new construction will be the uniform building value for any facility for which the base year is the same as the current year. The current year is the calendar year in which the rate year starts. The uniform building value for facilities with a base year which is older than the current year will have the revised cost per bed for new construction discounted by a three percent obsolescence factor for each year between the base year and the current year. The uniform building value will be no lower than ten percent of the revised cost per bed for new construction. For example:

Base Year	Factor	Uniform Building Value
1991	100%	\$28,200
1990	97%	\$27,354
1989	94%	\$26,508
1988	91%	\$25,662
1987	88%	\$24,816
1986	85%	\$23,970

1975	52%	\$14,664

1960	10%	\$ 2,820

- 11) "Building Specific Historical Cost Per Bed" is the inflated original building base cost divided by the number of licensed beds on the cost report used to calculate rates for the rate year. If licensed beds changed during the cost report period, the licensed beds on the last day of the cost

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report period will be used as the devisor. The original building base cost is inflated based upon the Means Construction Index and the base year.

- 12) The "ERVWC" factor relates to equipment, rent, vehicle and working capital cost. The ERVWC factor will be the greater of \$1.75 per diem or the amount from the following calculation based upon a sample of 50 percent or more of all long term care facilities:
 - A) Working Capital: Allowable support costs, nursing or program costs and administrative costs will be updated for inflation and be divided by Capital days and multiplied by 60 days to yield two months of Working Capital investment on a per diem basis.
 - B) The per diem investment in equipment and vehicle will be added to the working capital investment on a per diem basis (the vehicle investment is limited to fifty cents per diem). This total investment is multiplied by 9.13 percent.
 - C) The result of Step B is added to the per diem equipment rent cost to obtain an ERVWC base factor.
- c) Any items of fixed equipment which are no longer in use or are not providing significant value for inpatient long term care purposes must not be reported on the cost report fixed asset schedules for land, buildings, equipment and vehicle. For example, portions of a building not being used for nursing home operations must not be reported. Any assets which were removed from the cost report depreciation schedules prior to the 1986 cost report due to the asset being fully depreciated may not now be included in the building or equipment basis. Also, if a vehicle is used partially for personal purposes or purposes other than operation of the nursing home then this portion of the cost must not be included in the vehicle cost section of the cost report.
- d) No asset may be included in the building or equipment basis unless complete documentation for the cost and year of purchase or construction is maintained. This data must be maintained to facilitate efficient audit reviews by representatives of the Department.

(Source: Amended at 36 Ill. Reg. _____, effective _____)