



EXECUTIVE ORDER

2017-04

EXECUTIVE ORDER TO CONTINUE AND EXPAND SUCCESSES IN IMPROVING STATE ADMINISTRATIVE PROCEEDINGS

WHEREAS, adjudicators in State administrative proceedings make up a hidden judiciary, whose critical role in providing justice to the parties appearing before them often goes overlooked, despite the important consequences their decisions often have; and

WHEREAS, frayed patchworks of administrative rules, agency structures, and case management practices can cause delay, deny justice to parties, and create unnecessary expenses; and

WHEREAS, Executive Order 2016-06 began a pilot program to offer centralized administrative support to a limited number of State agencies and to determine whether consolidation of administrative hearings functions could succeed within the State; and

WHEREAS, during the pilot period the Bureau of Administrative Hearings (the "Bureau"), created within the Department of Central Management Services, demonstrated the efficiencies of case sharing between agencies, and within nine months, adjudicators from the Departments of Revenue ("DOR") and Public Health ("DPH") processed more than 500 Department of Labor cases, which otherwise would not have been heard; and

WHEREAS, case sharing advanced the professional development of adjudicators at DOR and DPH, did not require them to work overtime, and most importantly helped Illinois citizens and businesses receive resolution of their disputes faster, without sacrificing the quality of administrative decisions; and

WHEREAS, the efficiencies of case sharing were accomplished with the support of the Department of Innovation and Technology ("DoIT"), which created a cost-free system to hold remote hearings; and

WHEREAS, the Bureau also worked in cooperation with DoIT to implement a temporary case management solution for participating State agencies, reinforcing the need for a more permanent, uniform case management system; and

WHEREAS, the Bureau successfully developed a set of uniform rules of procedure for administrative hearings to streamline and rationalize agencies' administrative rules; and

WHEREAS, the Bureau made progress toward establishing a professional corps of adjudicators by developing training programs, a standard code of professional conduct, and opportunities for continuing legal education; and

WHEREAS, adjudicators participating in the pilot program demonstrated legal acumen, flexibility, and intelligence in handling cases that involved new areas of legal expertise; and

WHEREAS, the Bureau accomplished its goals even without the advantages that a fully centralized panel would provide, including flexible support staff assignments, shared space, and sophisticated technological systems; and

WHEREAS, the Bureau determined that more centralized administrative hearing functions would create between \$3 million and \$4 million in yearly savings for Illinois taxpayers simply by implementing a modern, uniform case management system and by consolidating adjudication services for agencies that have small hearings caseloads; and

WHEREAS, pursuant to Executive Order 2016-06, the Bureau would otherwise only exist until the end of the pilot period on June 30, 2017; and

WHEREAS, the successes of the Bureau during the pilot period demonstrate its value and show that its work should expand to involve additional State agencies;

THEREFORE, I, Bruce Rauner, Governor of Illinois, by virtue of the executive authority vested in me by Section 8 of Article V of the Constitution of the State of Illinois, do hereby order as follows:

I. DEFINITIONS

“Adjudicator” means an administrative law judge, hearing officer, hearing referee, or other State employee who conducts hearings on behalf of a State agency under the authority of the Office of the Governor pursuant to the Administrative Procedure Act.

“Bureau” means the CMS Bureau of Administrative Hearings.

“CMS” means the Department of Central Management Services.

“DoIT” means the Department of Innovation and Technology.

“Pilot period” means the period from the effective date of Executive Order 2016-06 until June 30, 2017.

“State” means the State of Illinois.

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IN THE OFFICE OF
SECRETARY OF STATE

II. CONTINUATION OF THE BUREAU OF ADMINISTRATIVE HEARINGS

The Director of CMS shall reestablish the Bureau, as previously created by Executive Order 2016-06. The Director of CMS shall continue to have the power to appoint the Bureau Chief from its existing legal staff. The Bureau shall continue to exist within CMS indefinitely, unless discontinued by subsequent Executive Order, administrative rule, or Public Act.

The Bureau shall enter into interagency contracts for purposes of providing consolidated administrative hearing functions with up to 25 State agencies, as authorized by the Intergovernmental Cooperation Act and other applicable law. The Bureau may enter into additional interagency contracts for this purpose with the permission of the Office of the Governor. Pursuant to such contracts, the Bureau shall continue to develop training programs for adjudicators; improve the process for assigning cases among adjudicators; promote shared resources among participating State agencies; improve its uniform rules of procedure and recommend revisions to the agencies’ administrative rules on administrative hearings; improve its standard code of professional conduct for adjudicators; and in cooperation with DoIT, implement modern, uniform filing and case management systems. Further, pursuant to such interagency contracts, the Bureau shall work with agencies to implement the standard code of professional conduct for adjudicators and the uniform rules of procedure it develops, making and recommending such periodic amendments as it believes prudent.

State agencies and the Bureau shall coordinate to ensure efficiency and effectiveness in the implementation of uniform rules of procedure and a standard code of professional conduct and through the sharing of resources and information necessary to determine the efficacy of current State administrative processes, organizational structures, and case management practices. The Bureau shall monitor and seek to eliminate backlogs and inefficiencies wherever they exist, and shall identify where these goals are hindered by lack of communication, poor or nonexistent electronic case management systems, or decentralized operations. To assist the Bureau in these efforts, State agencies should provide information related to case backlogs and workflows to the Bureau at its request.

The Bureau shall investigate and determine whether and to what extent the further consolidation of adjudicators, administrative hearing and support functions, and associated resources among State agencies would result in a more efficient, timely, and responsive administrative hearing system. The

consider, without limitation, the extent to which consolidation would enable more efficient administrative procedures, greater customer satisfaction, greater public trust and confidence, a reduced backlog of cases, and any cost savings or cost avoidance. Any consolidation in light of such findings would be accomplished by subsequent Executive Order or Public Act.

The Bureau Chief shall meet with the Office of the Governor and the Director of CMS by September 30, 2017, and quarterly thereafter if requested by the Office of the Governor, to report on and assess the impact of the administrative hearing support program. At such meetings, the Bureau Chief also shall describe the Bureau's investigation and determination with respect to further consolidation, as contemplated above, and include the Bureau's recommendations for any further reforms. By July 30, 2018, and yearly thereafter, the Bureau Chief shall submit a written report to the Governor and the General Assembly and include the Bureau's recommendations for any subsequent reforms.

III. SAVINGS CLAUSE

1. This Executive Order does not, and shall not be construed to, transfer any rights, powers, duties, functions, property, personnel, or funds from, to, or among State agencies; each State agency continues to have whatever authority is provided to it pursuant to the Intergovernmental Cooperation Act and other applicable law to enter into interagency contracts, which may include permissible transfers.
2. This Executive Order shall not affect any act undertaken, ratified, or cancelled or any right occurring or established or any action or proceeding commenced in an administrative, civil, or criminal case before this Executive Order takes effect, but these actions or proceedings may be prosecuted and continued by the Bureau in cooperation with the State agency, if necessary.
3. This Executive Order shall not affect the legality of any rules in the Illinois Administrative Code that are in force on the effective date of this Executive Order, which rules have been duly adopted by the pertinent agencies. If necessary, however, the affected agencies shall propose, adopt, or repeal rules, rule amendments, and rule recodifications as appropriate to effectuate this Executive Order.
4. This Executive Order does not contravene, and shall not be construed to contravene, any federal law, State statute, or collective bargaining agreement.

IV. PRIOR EXECUTIVE ORDERS

This Executive Order supersedes any contrary provision of any other prior Executive Order.

V. SEVERABILITY CLAUSE

If any part of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

VI. EFFECTIVE DATE

This Executive Order shall take effect upon filing with the Secretary of State.


Bruce Rauner, Governor

Issued by Governor: August 2, 2017
Filed with Secretary of State: August 2, 2017

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IN THE OFFICE OF
SECRETARY OF STATE