

ILLINOIS REGISTER

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Special Eligibility Groups
- 2) Code Citation: 89 Ill. Adm. Code 118
- 3) Section Number: 118.700                      Emergency Action:  
New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].
- 5) Effective Date: October 1, 2014
- 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: None
- 7) Date Filed with the Index Department: September 29, 2014
- 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: Pursuant to Public Act 98-0651, which amended 305 ILCS 5/5-5, effective for dates of outpatient services and inpatient discharges on and after October 1, 2014, any non-citizen is eligible for kidney transplantation where each of the criteria set forth in the new Subpart 118.700 are met.
- 10) Complete Description of the Subjects and Issues Involved: Public Act 98-651 added 5 ILCS 100/5-45(r) granting the Department the authority to file emergency rulemaking to provide for the expeditious and timely implementation of the provisions of 98-651. The adoption of emergency rules authorized by the new subsection (r) is deemed to be necessary for the public interest, safety, and welfare.
- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objectives: This emergency amendment neither creates nor expands any State mandate affecting units of local government.
- 13) Information and questions regarding these amendments shall be directed to:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services

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201 South Grand Avenue East, 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

217/782-1233

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 b: ASSISTANCE PROGRAMS

PART 118

SPECIAL ELIGIBILITY GROUPS

SUBPART A: DISABLED ADULT CHILDREN

Section  
118.100 Disabled Adult Children

SUBPART B: PERSONS WITH ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)  
OR AIDS RELATED COMPLEXES (ARC)

Section  
118.150 Continuation of Health Insurance Coverage  
118.200 Drugs to Prolong the Lives of Persons With Acquired Immunodeficiency  
Syndrome (AIDS) or AIDS Related Complexes (ARC)

SUBPART C: WIDOWS AND WIDOWERS

Section  
118.300 Widows and Widowers

SUBPART D: MISCELLANEOUS PROGRAM PROVISIONS

Section  
118.400 Incorporation by Reference

SUBPART E: CERTAIN NON-CITIZEN CHILDREN

Section  
118.500 Medical Services for Certain Non-Citizen Children

SUBPART F: FAMILYCARE ELIGIBILITY

Section  
118.600 Limited FamilyCare Expansion (Repealed)

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SUBPART G: KIDNEY TRANSPLANTATION FOR NONCITIZENS WITH END-STAGE  
RENAL DISEASE

Section

118.700 Kidney Transplantation for Noncitizens with End-Stage Renal Disease  
EMERGENCY

AUTHORITY: Implementing Articles III, IV, VI and Section 5-18 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI, 5-18 and 12-13].

SOURCE: Emergency rule adopted at 12 Ill. Reg. 3037, effective January 15, 1988, for a maximum of 150 days; adopted at 12 Ill. Reg. 6301, effective March 18, 1988; amended at 12 Ill. Reg. 8068, effective April 26, 1988; amended at 13 Ill. Reg. 3950, effective March 10, 1989; amended at 14 Ill. Reg. 10442, effective June 20, 1990; emergency amendment at 15 Ill. Reg. 8708, effective June 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 11607, effective July 15, 1992; emergency amendment at 17 Ill. Reg. 11217, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19956, effective November 12, 1993; amended at 19 Ill. Reg. 7959, effective June 5, 1995; emergency amendment at 22 Ill. Reg. 15724, effective August 12, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 562, effective December 24, 1998; recodified from Department of Public Aid to the Department of Healthcare and Family Services at 29 Ill. Reg. 5601, effective July 1, 2005; emergency amendment at 30 Ill. Reg. 10129, effective May 17, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 16966, effective October 13, 2006; emergency amendment at 33 Ill. Reg. 10780, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 15702, effective November 2, 2009; emergency amendment at 36 Ill. Reg. 10223, effective July 1, 2012 through June 30, 2013; amended at 37 Ill. Reg. 10201, effective June 27, 2013; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, for a maximum of 150 days.

SUBPART G: KIDNEY TRANSPLANTATION FOR NONCITIZENS WITH END-STAGE  
RENAL DISEASE

**Section 118.700 Kidney Transplantation for Noncitizens with End-Stage Renal Disease  
EMERGENCY**

Pursuant to Public Act 98-0651, which amended 305 ILCS 5/5-5, effective for dates of outpatient services and inpatient discharges on and after October 1, 2014, notwithstanding 305 ILCS 5/1-11 and any citizenship or immigration requirements under Title 89, any non-citizen is eligible for kidney transplantation where each of the following criteria are met:

- a) The non-citizen:

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- 1) has end stage renal disease;
  - 2) is enrolled with the Department with coverage limited to renal dialysis services;
  - 3) is not eligible for comprehensive medical benefits under any government funded or private insurance plan;
  - 4) otherwise meets the income, asset and categorical requirements of the medical assistance program;
  - 5) meets the residency requirements of 305 ILCS 5/5-3 and 89 Ill. Adm. Code 120.311; and
  - 6) is not a migrant worker under 305 ILCS 5/5-3.
- b) Notwithstanding any other provisions under this Title, providers, including transplant centers, providing kidney transplantation services under this Subpart shall be pre-certified by the Department and meet all provider requirements consistent with 89 Ill. Adm. Code 148.82. Only providers, including transplant centers, enrolled in the Medical Assistance Program and located in the State of Illinois shall be allowed to perform the kidney transplantation and conduct the medically necessary care identified in subsection (c).
- c) The kidney transplantation shall be medically necessary and shall be prior approved by the Department. Only medically necessary services associated with kidney transplantation shall be covered, including but not limited to donor and recipient transplant surgeries (including facility, surgical and anesthesia services), recommended pre-op evaluation and screening, assessment for evaluation of recipient's ability to comply with medical and follow up instructions, acquisition and harvesting, hospitalization, medical follow up and testing, rehabilitative and home nursing services, pharmacy costs including anti-rejection and anti-infective medicines and incidental costs for care of complications in the peri-operative period.
- d) Request for repeat kidney transplantation shall be considered in exceptional circumstances and shall require prior approval by the Department;
- e) Transplantation of organs other than kidneys shall not be a covered service under this Subpart.

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- f) Clinical Trials shall not be a covered service under this Subpart.
- g) Experimental procedures shall not be a covered service under this Subpart.
- h) Notwithstanding any other provisions under Title 89, reports, including patient's progress, kidney function tests, complications, if any, and a list of current medications shall be submitted to the Department from the transplant center and transplant surgeon at three months after surgery and at the anniversary date of transplantation annually for five years.
- i) Notwithstanding any other provisions under this Title, payment for services rendered under this Subpart shall be at a single bundled rate, which shall be payment in full for all medically necessary services associated with the transplantation under this Subpart, with the exception of immunosuppressant drugs. The bundled rate shall have two components. First, the inpatient stay during which the transplant takes place will be priced using the Department's hospital rate methodology pursuant to 89 Ill. Adm. Code 149.100, second, the Department will then add \$15,000.00 to this price to cover all ancillary services covered in subsection (c) except immunosuppressant drugs. These two components will comprise the single bundled rate for the transplant.
- j) Drugs paid for under this Subpart shall be subject to all the Department's pharmaceutical protocols and procedures, including but not limited to placement on the prior approval list, preferred drug list, generic drug preference, and utilization controls, except 1) drugs may not be shipped to any address outside the State of Illinois; and 2) immunosuppressant drugs shall be paid for at the Department's prevailing rates under 89 Ill. Adm. Code 140 to a pharmacy provider approved specifically for this program. Immunosuppressant drugs paid under this Subpart shall be covered by the Department as long as medically necessary and as long as the non-citizen remains eligible under this Subpart.

(Source: Added by emergency rulemaking at 38 Ill. Reg. \_\_\_\_\_,  
\_\_\_\_\_, for a maximum of 150 days)