

ILLINOIS DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SECOND NOTICE OF PROPOSED RULEMAKING

- 1) Agency Name: Department of Healthcare and Family Services
- 2) Subject of Proposed Rulemaking: DRA rules
Heading of the Part: Rights and Responsibilities
Code Citation: 89 Ill. Adm. Code 102
- 3) Date of Proposed Rulemaking: August 13, 2010
Illinois Register Citation: 34 Ill. Reg. 11655
Summary of Proposed Rulemaking: In conjunction with the rulemaking affecting Part 120 that also appears in this issue of the *Illinois Register*, these amendments implement the provisions of the Deficit Reduction Act of 2005 (PL 109-171, 2006 S 1932) (DRA).
- 4) Text and Location of Changes Made to the Proposed Rulemaking During the Public Comment Period: The following changes were made:

In subsection (a)(11) of Section 102.80, added “89 Ill. Adm. Code” in front of the word “Sections” and deleted “120.379(i),” and “of this Part”.
- 5) Response to Recommendations Made by the Administrative Code Division: N/A
- 6) Incorporation by Reference: This proposed rulemaking does not include any incorporation by reference.
- 7) Final Regulatory Flexibility Analysis:
 - A) The Department did not receive any comments from small businesses or local governmental units regarding this proposed rulemaking.
 - B) No alternatives to the proposed rulemaking were suggested by small businesses or local governmental units.
- 8) Compliance with Small Business Flexibility Requirements: This rulemaking has no effect on small businesses or units of local government. No action is required with respect to Section 5-30 of the Illinois Administrative Procedure Act.
- 9) Agency's Evaluation of Submissions by Interested Persons During the Public Comment Period

- A) List of individuals and groups submitting comments: No comments were received on these proposed amendments.
 - B) Specific criticisms, suggestions, and comments raised: None
 - C) Changes made as a result of public comments: None
 - D) Public hearings: Public hearings were held in Chicago, IL and Springfield, IL on this rulemaking.
- 10) Justification and Rationale for the Proposed Rulemaking
- A) Changes in Illinois laws, which require the rulemaking: None
 - B) Changes in agency policies and procedures, which require the rulemaking: None
 - C) Federal laws, rules or funding requirements, which require the rulemaking: None
 - D) Court orders or decisions, which require the rulemaking: None
 - E) Any other reasons for the rulemaking: The authority currently does not exist for such an action.
- 11) Agency Personnel Who Will Respond to Joint Committee Questions Regarding the Proposed Rulemaking: Please address any questions to:
- Jeanette Badrov
General Counsel
Illinois Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002
- 217/782-1233
- 12) State Mandates Act Questionnaire: See Attachment Two.
- 13) Analysis of Economic and Budgetary Effects of the Proposed Rulemaking: See Attachment Three.

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- 14) Impact Statement from Department of Commerce and Economic Opportunity: The Department of Commerce and Economic Opportunity has indicated that these proposed amendments will not adversely affect small businesses.

ATTACHMENT ONE
FIRST NOTICE CHANGES

CHANGES IN THE TEXT OF THE PROPOSED AMENDMENTS
DURING THE FIRST NOTICE PERIOD

Agency: Department of Healthcare and Family Services

Heading of the Part: Rights and Responsibilities (89 Ill. Adm. Code 102)

Illinois Register Citation: 34 Ill. Reg. 11655

Changes:

The following changes were made:

1. In line 110, added "89 Ill. Adm. Code" in front of the word "Sections" and deleted "120.379(i)."
2. In line 111, deleted "of this Part".

ATTACHMENT TWO

STATE MANDATES ACT QUESTIONNAIRE

Agency: Department of Healthcare and Family Services

Heading of the Part: Rights and Responsibilities (89 Ill. Adm. Code 102)

Illinois Register Citation: 34 Ill. Reg. 11655

1. Does this rulemaking affect a municipality, county, township, other unit of local government, school district or community college district?

Yes No

If yes, please check the type of entity or entities that are affected.

Municipality
County
Township
Other Unit of Local Government
School District
Community College District

2. Does this rule require a unit of local government, a school district, or a community college district to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues?

Yes No

Total number of units affected: Not applicable

If yes, please estimate the amount of additional expenditures necessitated by this rulemaking per unit of government: \$0

NOTE: If the dollar amount, or total number of units affected is unknown, please outline and attach to this form a specific and detailed explanation of the steps taken by the

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agency to determine the approximate expense of the rulemaking, and the number of units affected.

If no, please explain why the rule does not necessitate such additional expenditures.

These proposed amendments do not require additional expenditures by any units of local government because they do not regulate or impose any responsibilities on units of local government.

3. Were any alternatives to the rule, which did not necessitate additional expenditures considered?

Yes No

If yes, please list these alternatives and explain why these alternatives were rejected.

4. What is the policy objective(s) of the rulemaking? (Please be specific)

The policy objectives of these proposed amendments are fully explained in the Notice of Proposed Amendments.

5. Please explain, in detail, why the policy objective(s) of this rule cannot be achieved in the absence of the rule.

In conjunction with the rulemaking affecting Part 120 that also appears in this issue of the *Illinois Register*, these amendments implement the provisions of the Deficit Reduction Act of 2005 (PL 109-171, 2006 S 1932) (DRA).

ATTACHMENT THREE

AGENCY ANALYSIS OF ECONOMIC AND BUDGETARY EFFECTS OF PROPOSED RULEMAKING

Agency: Department of Healthcare and Family Services

Heading of the Part: Rights and Responsibilities (89 Ill. Adm. Code 102)

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Please attempt to provide as dollar-specific responses as possible and feel free to add any relevant narrative explanation.

1. Anticipated effect on State expenditures and revenues.
 - (a) Current cost to the agency for this program/activity. HFS spends more than \$1.5 billion annually on long term care services.
 - (b) If this rulemaking will result in an increase or decrease in cost, specify the fiscal year in which this change will first occur and the dollar amount of the effect.

HFS anticipates no increase or decrease in cost as a result of this amendment.
 - (c) Indicate the funding source, including Fund and appropriation lines for this program/activity.

Funding sources include state, federal and provider assessment revenue. Appropriation lines include GRF Long Term Care Services and Nursing Home IMD Services and the Nursing Home Provider Assessment Long Term Care Services.
 - (d) If an increase or decrease in the costs of another State agency is anticipated, specify the fiscal year in which this change will first occur and the estimated dollar amount of the effect.

There is no anticipation of an increase or decrease in the costs of another State agency.
 - (e) Will this rulemaking have any effect on State revenues or expenditures not already indicated above? Specify effects and amounts. No
2. Economic effect on entities regulated by the rulemaking.

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- (a) Indicate the economic effect and specify the entities affected:

Positive Negative No effect

Entities Affected: Not applicable

Dollar amount per entity: Not applicable

Total Statewide cost: Unknown

- (b) If an economic effect is predicted, please briefly describe how the effect will occur. (Example: Additional continuing education courses will require expenditures for course fees.) Not applicable
- (c) Will the rulemaking have an indirect effect that may result in increased administrative costs? Will there be any change in requirements such as filing, documentation, reporting or completion of forms? Compare to current requirements.

HFS does not anticipate an indirect effect on administrative costs.