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ILLINOIS DEPARTMENT OF INSURANCE  
CURRENT AND RECENTLY ADOPTED RULEMAKINGS

FEBRUARY 24, 2023

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The following are summaries of administrative rules recently filed by IDOI; they are at various stages in the rulemaking process. The rules listed here have been or soon will be published by the Secretary of State in the Illinois Register. Links are provided to the issues of the Illinois Register in which these rules have been published. In addition, IDOI's adopted rules are available online (after publication in the Illinois Register) at the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR) web page:

<http://ilga.gov/commission/jcar/admincode/050/050parts.html>

The proposed rules have no legal effect until after they have been through the first and second notice periods and are adopted by IDOI and filed with the Secretary of State's Office. The public may submit comments to IDOI during the 45-day first notice period that commences with a rule's initial publication in the Register. The adopted rules may differ from those originally published. JCAR's website contains additional information on the rulemaking process:

<http://ilga.gov/commission/jcar/default.htm>

**DISCLAIMER:** The Illinois Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings; however, the Illinois Department of Insurance neither warrants nor represents the accuracy or timeliness of the information contained in the Register, or on the IDOI website. The information and links provided on this site are intended solely for the convenience of interested persons; you are urged to consult the official documents or contact legal counsel of your choice. This site should not be cited as an official or authoritative source. Amendments, court decisions and other proceedings may affect the text, interpretation, validity and constitutionality of the laws and rules.

**FIRST NOTICE:**

**50 Ill. Adm. Code 3502, Destruction of Records:** The Department will amend the destruction of records procedures in Part 3502 for companies under the Farm Mutual Insurance Act of 1986 to parallel the provisions in 50 Ill. Adm. Code 901 for all other insurance companies. Part 901 was updated in 2016 but did not include farm mutual insurance companies. *(Filed February 21, 2023)*

**Date Published:** To be determined

**Illinois Register Citation:** To be determined

**Comment Period Ended:** To be determined

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**SECOND NOTICE:**

**50 Ill. Adm. Code 2008, Minimum Standards for Individual and Group Medicare Supplement Insurance:** Effective January 1, 2022, Section 363 of the Insurance Code requires notification of new Medicare supplemental plan enrollment options at the time of application. The required notice form may be prescribed by the Department. (215 ILCS 5/363(8)). Therefore, the Department seeks to add this new notice to the existing Medicare supplement notices required at the time of application so that it is included on the application document filed with and approved by the Department. In addition, several corrections and updates are being made.

**Date Published:** [November 4, 2022](#)

**Illinois Register Citation:** 46 Ill. Reg. 17541

**JCAR Meeting Scheduled:** March 21, 2023

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**50 Ill. Adm. Code 4540, Network Adequacy and Transparency:** The overall purpose of this rulemaking is to strengthen the implementation of the Network Adequacy and Transparency Act (“NATA”) and to clarify its requirements.

Generally, the rules specify where and with what information an insurer must file its network adequacy description under Section 10 of the NATA, revised filings resulting from material changes to a network, reports on the self-audits required under Section 25 of the NATA, and notices of nonrenewal or termination of a provider contract.

For network plans to be issued, delivered, or renewed on or after January 1, 2023, the rules specifically establish time and distance standards for each provider specialty type based upon the federal requirements for qualified health plans published by the federal Centers for Medicare and Medicaid Services

("CMMS") for plan year 2023. However, statutory standards specified under Section 10(d-5) of the NATA shall apply with respect to behavioral health providers.

For network plans to be issued, delivered, or renewed on or after January 1, 2023, the rules establish minimum provider ratios for each provider specialty type. These ratios were obtained from the Illinois Department of Public Health and are used by that agency for evaluating the adequacy of health maintenance organization provider networks. CMMS has not promulgated provider ratios that apply to the types of health insurance coverage subject to the NATA. Federal CMMS does have provider ratios for Medicare Advantage plans, but the Department decided not to adopt them because the health care needs of the population primarily served by Medicare may not adequately reflect the health care needs of the general population enrolling in state-regulated, private, commercial health insurance coverage.

The rules further establish procedures for insurers to request an exception to applicable provider ratios or time and distance standards except to the extent that Section 10(d-5) of the NATA prohibits some exceptions related to behavioral health providers.

The rules clarify the requirements for self-audits that Section 25 of the NATA requires insurers to conduct on their provider directories "periodically." In light of the federal No Surprises Act's requirements for insurers to establish formal processes for such self-audits and to conduct them every 90 days, the Department is adopting those requirements by rule and will require insurers to annually report those processes to the Department. Additionally, the rules require that the insurer annually report the results of the previous calendar year's self-audits to the Department, and they specify high-level data and analyses that must be included in a report summary. The summary will assist the Department in monitoring the efficacy of the insurer's processes for updating provider directory information in compliance with Section 25 of the NATA, as well as internal and external factors that may impede compliance.

The rules further require insurers with network plans to file with the Department the notices to be issued to providers and beneficiaries when a provider leaves the provider network. They also establish a timeframe for the beneficiary to request transitional care that matches the existing requirement applicable to health maintenance organizations under 50 Ill. Adm. Code 4520.50(b) and require the notice to beneficiaries to include useful information, such as who qualifies for transitional services, how to request such services, how to find a new preferred provider in the same specialty, in-network benefits available for out-of-network services when the insurer does not have an appropriate preferred provider, and information about appeals processes and where to direct complaints to the insurer and to the Department.

Finally, the rules provide a method for determining which documents and communications exchanged under the NATA are open to inspection and copying under the Freedom of Information Act ("FOIA"). FOIA establishes a presumption, which a public body may only overcome through clear and convincing evidence based on the exemptions contained within or incorporated by FOIA, that all records in the public body's custody or possession shall be open to public inspection and copying. By filing any document with the Department or engaging in any recorded communications with the Department, a regulated person subjects those documents and communications to that statutory presumption. Sections 7 and 7.5 of FOIA provide the only exceptions to that presumption that conceivably may apply to network adequacy filings. Because the NATA has no confidentiality provisions of its own and directly or indirectly requires certain information about network providers to become publicly available, and because FOIA case law has clarified the information that a public body needs from a business to justify withholding the business' documents based on a claim that they are trade secrets or confidential commercial or financial information, the Department is clarifying by rule which NATA records can be made public or will be withheld and what information the insurer must provide for the Department to assert a valid trade secrets exemption under Section 7(1)(g) of FOIA.

**Date Published:** [April 15, 2022](#)

**Illinois Register Citation:** 46 Ill. Reg. 5835

**JCAR Meeting Scheduled:** March 21, 2023

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**RULEMAKINGS ADOPTED DURING 2023:**

**50 Ill. Adm. Code 926, Insurance Department Consumer Complaints:** Part 926 is intended by the Department to apply to all entities and individuals licensed or otherwise approved by the Department to do business in Illinois. As currently written, Section 926.20 could be interpreted to apply to all entities and individual insurance producers, but not other individual licensees such as public adjusters, navigators, or pharmacy benefits managers. This amendment seeks to avoid any misinterpretations of the scope of the Rule.

**Effective Date:** February 1, 2023

**Date Published:** [February 17, 2023](#)

**Illinois Register Citation:** 47 Ill. Reg. 2294

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**50 Ill. Adm. Code 2303, Arson Fraud Detection Reporting System:** Part 2303 needs to be repealed because it references outdated reporting requirements and is not enforceable. The Property Insurance Loss Register that is the subject of this rule no longer exists.

**Effective Date:** February 1, 2023

**Date Published:** [February 17, 2023](#)

**Illinois Register Citation:** 47 Ill. Reg. 2299

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**50 Ill. Adm. Code 3118, Licensing of Public Adjusters:** This Part needs to be updated to conform to amendments to public adjuster licensing requirements under Pub. Act 102-0135 repealing Article XXXI  $\frac{3}{4}$  of the Illinois Insurance Code and allowing continuing education ethics requirements to be completed via webinar. Provisions that repeated statute are being removed and additional organizational revisions are made to more clearly set out requirements of licensed Public Adjusters and Public Adjuster Business Entities.

**Effective Date:** February 1, 2023

**Date Published:** [February 17, 2023](#)

**Illinois Register Citation:** 47 Ill. Reg. 2301

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**50 Ill. Adm. Code 3120, Suitability in Annuity Transactions:** Part 3120 is being amended to conform with recent changes to the National Association of Insurance Commissioner's (NAIC) Suitability in Annuity Transactions Model Regulation that was modified in the first quarter of 2020. The changes are designed to strengthen the present Department rule by requiring producers, as defined in this rule, to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed.

**Effective Date:** February 3, 2023

**Date Published:** [February 17, 2023](#)

**Illinois Register Citation:** 47 Ill. Reg. 2312

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**RULEMAKINGS ADOPTED DURING 2022, PUBLISHED IN 2023:**

**50 Ill. Adm. Code 652, Registration of Insurers:** The Rule allows insurance holding company groups to request an exemption or to request to file a limited filing after making a full Group Capital Calculation filing in the first year. The full Group Capital Calculation filing can be a significant effort (time and expense) for groups. This amendment removes the requirement for a first year filing for insurance holding company groups if they are otherwise exempt from filing or authorized to make a limited filing.

**Effective Date:** December 20, 2022

**Date Published:** [January 6, 2023](#)

**Illinois Register Citation:** 47 Ill. Reg. 126

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**50 Ill. Adm. Code 1411, Universal Life Insurance:** 50 Ill. Adm. 1411.50(g) is being amended to remove “or Sex” from the heading and text since this language contradicts the language in 215 ILCS 5/224(1)(d). Additionally, a citation is being corrected in Section 1411.40(b)(2)(D).

**Effective Date:** December 20, 2022

**Date Published:** [January 6, 2023](#)

**Illinois Register Citation:** 47 Ill. Reg. 133

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**50 Ill. Adm. Code 2015, Infertility Coverage:** This rulemaking is initiated to conform with statutory mandates contained in Sections 356m, 356z.4a and 356z.32 of the Illinois Insurance Code (215 ILCS 5/356m, 5/356z.4a, and 5/356z.32). The rules amended deal with coverage for infertility, as well as exceptions for fertility preservation services and abortion.

The amendments adopt the broader definition of “infertility” in Section 356m.

The amendments also reflect the statute’s broadened required coverage for oocyte retrievals from In Vitro Fertilization, Gamete Intrafallopian Tube Transfer or Zygote Intrafallopian Tube Transfer to include

instances when an individual is unable to attain or maintain a viable pregnancy after using less costly fertility treatments.

Per 215 ILCS 5/356z.32, the amendments also clarify that policy exclusions must not apply to cryopreservation of sperm, oocytes, and embryos, when a covered individual is to undergo medical treatment which may directly or indirectly cause the person to become infertile.

Due to the protection of coverage in 215 ILCS 5/356m(d) pertaining to fertility services provided by or to a third party, exclusions also must not apply to fertility services provided to surrogates until the sperm or embryos have been transferred into the surrogate and the surrogate has been discharged to regular obstetric care. Unique limitations on coverage for the diagnosis and treatment of infertility and for standard fertility preservation services are also prohibited.

**Effective Date:** December 20, 2022

**Date Published:** [January 6, 2023](#)

**Illinois Register Citation:** 47 Ill. Reg. 143

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