
ILLINOIS DEPARTMENT OF INSURANCE
CURRENT AND RECENTLY ADOPTED RULEMAKINGS

NOVEMBER 1, 2023

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 806, Derivative Instruments: Parts 806 and 1104 are being amended solely to update an incorporation by reference in Section 806.40(e)(2) and Section 1104.30(a)(2).

Date Published: [August 25, 2023](#)

Illinois Register Citation: 47 Ill. Reg. 12643

Comment Period Ended: October 9, 2023

For information, please contact:

Laura Kotelman

or

Susan Anders

Assistant General Counsel
Department of Insurance
122 S. Michigan Ave., 19th Floor
Chicago, Illinois 60603

(312) 814-8214
Laura.Kotelman@illinois.gov

Rules Coordinator
Department of Insurance
320 West Washington, 4th Floor
Springfield, Illinois 62767-0001

(217) 558-0957
Sue.Anders@illinois.gov

50 Ill. Adm. Code 1104, Credit for Reinsurance Ceded: Parts 806 and 1104 are being amended solely to update an incorporation by reference in Section 806.40(e)(2) and Section 1104.30(a)(2).

Date Published: [August 25, 2023](#)

Illinois Register Citation: 47 Ill. Reg. 12648

Comment Period Ended: October 9, 2023

For information, please contact:

Laura Kotelman or
Assistant General Counsel
Department of Insurance
122 S. Michigan Ave., 19th Floor
Chicago, Illinois 60603

(312) 814-8214
Laura.Kotelman@illinois.gov

Susan Anders
Rules Coordinator
Department of Insurance
320 West Washington, 4th Floor
Springfield, Illinois 62767-0001

(217) 558-0957
Sue.Anders@illinois.gov

50 Ill. Adm. Code 2025, Illinois Health Insurance Portability and Accountability Standards: Since Illinois Comprehensive Health Insurance Plan (ICHIP) has been dissolved, there is no longer a need for a ICHIP to receive a formal notification for discontinuations at 50 Ill. Adm. Code Part 2025.70(b), as the plan no longer has any active coverage.

Date Published: [August 25, 2023](#)

Illinois Register Citation: 47 Ill. Reg. 12653

Comment Period Ended: October 9, 2023

For information, please contact:

Laura Kotelman or
Assistant General Counsel
Department of Insurance
122 S. Michigan Ave., 19th Floor
Chicago, Illinois 60603

(312) 814-8214
Laura.Kotelman@illinois.gov

Susan Anders
Rules Coordinator
Department of Insurance
320 West Washington, 4th Floor
Springfield, Illinois 62767-0001

(217) 558-0957
Sue.Anders@illinois.gov

50 Ill. Adm. Code 4521, Health Maintenance Organization: The Illinois Comprehensive Health Insurance Plan (ICHIP) was dissolved pursuant to Public Act 102-0159. Therefore, HMOs no longer need to notify enrollees that the election of any conversion contract will terminate the individual's federal eligibility for coverage under the Illinois Comprehensive Health Insurance Plan. Additionally, an

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.

Effective Date: April 4, 2023

Date Published: [April 21, 2023](#)

Illinois Register Citation: 47 Ill. Reg. 5701

For information, please contact:

Ryan Gillespie
Deputy Director of Health Products
Department of Insurance
320 West Washington Street 5th Fl.
Springfield, Illinois 62767-0001

(217) 558-2746

Ryan.Gillespie@Illinois.gov

50 Ill. Adm. Code 2008, Minimum Standards for Individual and Group Medicare Supplement

Insurance: This rulemaking ensures that all individuals who qualify for Medicare after the end of the COVID-19 Public Health Emergency receive no less than 63 days after loss of Medicaid coverage – or notice of their termination, whichever is later – in which they will be guaranteed issue of a Medicare supplement policy. The rulemaking also ensures that the existing text of 50 Ill. Adm. Code 2008.74(a) is not misconstrued to exclude individuals who apply for Medicare supplement policies while under a Medicare penalty, as the existing rule text is straightforwardly based on when the applicant actually enrolls in Medicare Part B coverage rather than when they first become eligible for Medicare Part B.

This rulemaking is prompted by the end of the Public Health Emergency declared by the U.S. Department of Health and Human Services and the responses of various states to that end. Various states seemingly have guaranteed issue of Medicare supplement insurance policies only until 63 days after enrollment in Medicare Part B for individuals who lose Medicaid coverage as a result of the Medicaid unwinding. However, under the existing text of 50 Ill. Adm. Code 2008.74(a), a Medicare supplement open enrollment period starts whenever an individual is both at least 65 years of age and enrolled in Medicare Part B benefits, regardless of whether a Medicare late enrollment penalty has ever applied, too. Some individuals will not enroll in Medicare until after they are disenrolled from Medicaid, while other individuals have enrolled in Medicare before the termination of Medicaid benefits.

Illinois Medicaid enrollees may simultaneously enroll in Medicare and apply Medicaid payments to amounts they owe under Medicare. Medicaid members, however, are not able to purchase Medicare supplement plans because, under federal law, carriers are prohibited from intentionally selling Medicare supplement policies to individuals on Medicaid. *See* 42 U.S.C. § 1395ss(d)(3)(B)(iii). This rulemaking will ensure that, no matter when individuals disenroll from Medicaid, they will have at least 63 days, and possibly the full Medicare supplement open enrollment period, to enroll in any Medicare supplement policy.

The proposed amendment also clarifies the applicability of the above provisions to individuals under age 65 who qualify for Medicare by reason of disability.

Effective Date: November 1, 2023
Date Published: To be determined
Illinois Register Citation: To be determined
For information, please contact:

Ryan Gillespie
Deputy Director of Health Products
Department of Insurance
320 West Washington Street 5th Fl.
Springfield, Illinois 62767-0001

(217) 558-2746
Ryan.Gillespie@Illinois.gov

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
For information, please contact:

Julie Rachford
Deputy Director of P&C Product Lines
Illinois Department of Insurance
320 W. Washington St.
Springfield, IL 62767-0001

(217) 782-4572
Julie.Rachford@Illinois.gov

50 Ill. Adm. Code 3118, Licensing of Public Adjusters: This Part was 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 were removed and additional organizational revisions were 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
For information, please contact:

Justin Hammersmith
Deputy Director of Enforcement/Investigations

Illinois Department of Insurance
122 S. Michigan Ave., 19th Floor
Chicago, IL 60603

(312) 814-1767
justin.hammersmith@illinois.gov

50 Ill. Adm. Code 3120, Suitability in Annuity Transactions: Part 3120 was 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
For information, please contact:

Jeff Varga
Deputy Director Life and Annuity Products
Illinois Department of Insurance
320 W. Washington St.
Springfield, IL 62767-0001

(217) 785-5987
Jeff.Varga@Illinois.gov

50 Ill. Adm. Code 3502, Destruction of Records: The Department amended 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.

Effective Date: November 1, 2023
Date Published: To be determined
Illinois Register Citation: To be determined
For information, please contact:

Marcy Savage
Assistant Deputy Director, Corporate Regulation Section
Illinois Department of Insurance
320 W. Washington St.
Springfield, IL 62767

(217) 524-0016
marcy.savage@illinois.gov

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.

Effective Date: March 28, 2023

Date Published: [April 14, 2023](#)

Illinois Register Citation: 47 Ill. Reg. 5370

For information, please contact:

Ryan Gillespie
Deputy Director of Health Products
Department of Insurance
320 West Washington Street 5th Fl.
Springfield, Illinois 62767-0001

(217) 558-2746
Ryan.Gillespie@Illinois.gov