

ILLINOIS REGISTER

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Special Eligibility Groups
- 2) Code Citation: 89 Ill. Adm. Code 118
- 3)

<u>Section Numbers:</u>	<u>Emergency Actions:</u>
118.730	Amendment
118.760	Amendment
118.830	Amendment
118.860	Amendment
- 4) Statutory Authority: Implementing Articles III, IV, V, VI and Section 5-18 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5].
- 5) Effective Date of Rule: June 16, 2023
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which they are to expire: Upon adoption of the proposed general rulemaking.
- 7) Date Filed with the Index Department:
- 8) A copy of the emergency rules, 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: Per the 2023 Medicaid Omnibus (SB1298) and as authorized in 5 ILCS 100/5-45.37, the Department was granted emergency rulemaking authority to provide for the expeditious and effective ongoing implementation of medical services for certain noncitizens under 305 ILCS 5/12-4.35. The Department is using this authority granted by the Illinois General Assembly to adjust the program to fit within available resources.
- 10) Complete Description of the Subjects and Issues Involved: The emergency rulemaking outlines the implementation and processes previously authorized in rule that the Department may take any action, if deemed necessary, to assure that payments for the medical assistance program for certain noncitizens does not exceed available funding. In accordance with the 2023 Medicaid Omnibus (SB1298) and 89 IAC Section 118.760 and 118.860, these actions include: opening or closing enrollment with public notice, allowing co-payments and co-insurance on specified services, payment rates to large public hospitals, and when backdated medical coverage may be offered.

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- 11) Are there any other proposed rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objectives: This emergency rulemaking does not affect units of local government.
- 13) Information and questions regarding this emergency rule shall be directed to:

Steffanie Garrett
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

HFS.Rules@illinois.gov

The full text of the Emergency Amendments 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: HEALTH BENEFITS FOR IMMIGRANT SENIORS

Section

- 118.700 General Description
- 118.705 Definitions
- 118.710 Eligibility
- 118.715 Eligibility Exclusions and Terminations
- 118.720 Application Process
- 118.725 Determination of Monthly Countable Income
- 118.730 Eligibility Determination and Enrollment Process

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- 118.735 Appeals
- 118.740 Renewals of Eligibility
- 118.745 Covered Services
- 118.750 Service Exclusions
- 118.755 Provider Reimbursement
- 118.760 Program Limitations

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SUBPART H: KIDNEY TRANSPLANTATION AND
RELATED SERVICES FOR NONCITIZENS

Section

- 118.780 Kidney Transplantation for Noncitizens with End-Stage Renal Disease
- 118.790 Post Kidney Transplantation Services for Noncitizens

SUBPART I: HEALTH BENEFITS FOR IMMIGRANT ADULTS

Section

- 118.800 General Description
- 118.805 Definitions
- 118.810 Eligibility
- 118.815 Eligibility Exclusions and Terminations
- 118.820 Application Process
- 118.825 Determination of Monthly Countable Income
- 118.830 Eligibility Determination and Enrollment Process

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- 118.835 Appeals
- 118.840 Renewals of Eligibility
- 118.845 Covered Services

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- 118.850 Service Exclusions
- 118.855 Provider Reimbursement
- 118.860 Program Limitations

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

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; emergency amendment at 38 Ill. Reg. 19799, effective October 1, 2014, for a maximum of 150 days; emergency expired February 27, 2015; amended at 44 Ill. Reg. 19684, effective December 11, 2020; emergency amendment at 46 Ill. Reg. 4947, effective March 7, 2022, for a maximum of 150 days; emergency expired August 3, 2022; amended at 46 Ill. Reg. 5692, effective March 25, 2022; emergency amendment at 46 Ill. Reg. 12109, effective June 30, 2022, for a maximum of 150 days; amended at 46 Ill. Reg. 14541, effective August 8, 2022; amended at 46 Ill. Reg. 16734, effective September 21, 2022; emergency amendment at 47 Ill. Reg. _____, effective _____, for a maximum of 150 days.

SUBPART G: HEALTH BENEFITS FOR IMMIGRANT SENIORS

Section 118.730 Eligibility Determination and Enrollment Process

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- a) The applicant's eligibility for medical assistance receiving federal financial participation will be considered as a part of the eligibility determination process for this Program.
- b) If the monthly countable income is at or below 100% FPL without, or after deducting, the costs of medical or remedial care as determined in accordance with 89 Ill. Adm. Code 120.60(c), the application will be approved if all other factors of eligibility under Section 118.710, including resource limits, are met. The Health Benefits for Immigrant Seniors Program income standard is 100% FPL.
- c) Applicants will be notified, in writing, regarding the outcome of their eligibility determination.
- d) Eligibility will be redetermined at least annually.
- e) Individuals may obtain backdated medical coverage for up to three months prior to the month of application, unless:
 - 1) the individual does not meet all eligibility requirements for one or more backdated months; or:
 - 2) the Department determines that it is necessary to limit or eliminate the backdated medical coverage in order to assure payments for this Program do not exceed available annual funding.

(Source: Emergency amendment at 47 Ill. Reg. _____, effective _____, for a maximum of 150 days)

Section 118.760 Program Limitations
EMERGENCY

There is no entitlement to medical services under this Subpart and those services are available only to the extent that payments made for individuals eligible under this Subpart do not exceed the funding available for this Program. The Department may take any action it deems necessary to assure payments for this Program do not exceed available funding, including but not limited to: ceasing or limiting enrollment, changing standards of eligibility that are not statutorily required, changing enrollment practices, changing eligibility time periods, and reducing available medical services.

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- a) The Department shall publish notice of the opening or closing of enrollment, as referenced in 89 Ill. Adm. Code 118.735(a)(4), via the Department's website at <https://hfs.illinois.gov/info/legal/publicnotices.html> no later than fourteen (14) calendar days prior to the action.
- b) Co-payments or cost sharing may be charged for services provided to the population by a health care provider as described below, except for practitioner visits scheduled for family planning services.
- 1) Co-payment and cost sharing requirements are as follows, unless the services meet the requirement under 89 Ill. Adm. Code 120.310(b)(4) as an emergency medical condition or are otherwise covered under Department rule without a co-pay:
- A) Inpatient hospitalizations, \$250 per hospital stay;
- B) Hospital or Ambulatory Surgical Treatment Center outpatient services set forth at 89 Ill. Adm. Code 148.140(b), 10 percent of the Department rate as set forth in Section 128.350(c); and
- C) Hospital Emergency Visits, \$100.
- 2) Providers are responsible for collecting co-payments.
- 3) Providers may elect not to charge co-payments. If co-payments are charged, the co-payment may not exceed the amounts established in this Section.
- c) Any large public hospitals, as defined in Section 148.25(a), having received payments in excess of the rates paid to non-large public hospitals, shall be required to reimburse the State for any excess payment in a method and amount as determined by the Department.

(Source: Emergency amendment at 47 Ill. Reg. _____, effective _____, for a maximum of 150 days)

SUBPART I: HEALTH BENEFITS FOR IMMIGRANT ADULTS

Section 118.830 Eligibility Determination and Enrollment Process
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- a) The applicant's eligibility for medical assistance receiving federal financial participation will be considered as a part of the eligibility determination process for this Program.
- b) If the monthly countable income is at or below 138% FPL in accordance with 89 Ill. Adm. Code 120.64, the application will be approved if all other factors of eligibility under Section 118.810 are met.
- c) Applicants will be notified, in writing, regarding the outcome of their eligibility determination.
- d) Eligibility will be redetermined at least annually.
- e) Individuals may obtain backdated medical coverage for up to three months prior to the month of application, unless:
 - 1) the individual does not meet all eligibility requirements for one or more backdated months; ~~or-~~
 - 2) the Department determines that it is necessary to limit or eliminate the backdated medical coverage in order to assure payments for this Program do not exceed available annual funding.

(Source: Emergency amendment at 47 Ill. Reg. _____, effective _____, for a maximum of 150 days)

Section 118.860 Program Limitations

EMERGENCY

There is no entitlement to medical services under this Subpart and those services are available only to the extent that payments made for individuals eligible under this Subpart do not exceed the funding available for this Program. The Department may take any action it deems necessary to assure payments for this Program do not exceed available funding, including but not limited to: ceasing or limiting enrollment, changing standards of eligibility that are not statutorily required, changing enrollment practices, changing eligibility time periods, and reducing available medical services.

- a) The Department shall publish notice of the opening or closing of enrollment, as referenced in 89 Ill. Adm. Code 118.835(a)(4), via the Department's website at

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<https://hfs.illinois.gov/info/legal/publicnotices.html> no later than fourteen (14) calendar days prior to the action.

- b) Co-payments or cost sharing may be charged for services provided to the population by a health care provider as described below, except for practitioner visits scheduled for family planning services.
- 1) Co-payment and cost sharing requirements are as follows, unless the services meet the requirement under 89 Ill. Adm. Code 120.310(b)(4) as an emergency medical condition or are otherwise covered under Department rule without a co-pay:
- A) Inpatient hospitalizations, \$250 per hospital stay;
- B) Hospital or Ambulatory Surgical Treatment Center outpatient services set forth at 89 Ill. Adm. Code 148.140(b), 10 percent of the Department rate as set forth in Section 128.350(c); and
- C) Hospital Emergency Visits, \$100.
- 2) Providers are responsible for collecting co-payments.
- 3) Providers may elect not to charge co-payments. If co-payments are charged, the co-payment may not exceed the amounts established in this Section.
- c) Any large public hospitals, as defined in Section 148.25(a), having received payments in excess of the rates paid to non-large public hospitals, shall be required to reimburse the State for any excess payment in a method and amount as determined by the Department.

(Source: Emergency amendment at 47 Ill. Reg. _____, effective _____, for a maximum of 150 days)