



EXECUTIVE ORDER

2016-06

**EXECUTIVE ORDER TO ELIMINATE THE BACKLOG AND DELAY IN STATE  
ADMINISTRATIVE PROCEEDINGS**

**WHEREAS**, agencies of the State of Illinois make decisions that significantly impact the lives and livelihoods of Illinois residents and businesses – from deciding eligibility for healthcare and family benefits to licensing professionals and businesses, and from determining whether a person has been a victim of discrimination to ensuring that employers pay all wages due to their employees; and

**WHEREAS**, our constitutional, democratic principles require the State to afford due process to people and businesses affected by these decisions; and

**WHEREAS**, State agency decisions are reviewable through administrative hearings conducted under the Administrative Procedures Act; and

**WHEREAS**, more than 100,000 administrative hearings are requested each year, and more requests are expected in years to come; and

**WHEREAS**, each State agency is responsible for conducting its own administrative hearings, and this decentralized approach has resulted in a patchwork system that often is inefficient and unresponsive to the needs of the people and businesses that depend on it; and

**WHEREAS**, State agencies often do not have systems that track the amount of time it takes for cases to be concluded, making it difficult to determine with any sense of certainty where to direct resources and personnel; and

**WHEREAS**, under our current administrative hearing system at some agencies, such as the Departments of Labor and Financial and Professional Regulation, parties can wait up to two years to have their cases adjudicated; and

**WHEREAS**, the Human Rights Commission, which enforces state laws that prohibit discrimination, currently has a backlog of over 1,000 cases that have been pending without a decision for at least 2 years and some as long as 3; and

**WHEREAS**, these backlogs and delays are unacceptable and can illustrate the legal maxim, “justice delayed is justice denied”; and

**WHEREAS**, although a single statute governs State agencies’ administrative hearings, agencies often have different, conflicting, and inconsistent rules of administrative procedure, which confuse parties, impede transparency, and contribute to the backlog and delays; and

**WHEREAS**, administrative law judges and hearing officers generally conduct administrative hearings for the agencies at which they work even when those very agencies are a party in the case, thereby creating at least an appearance of a conflict of interest; and

**WHEREAS**, each State agency now bears responsibility for creating its own procedural rules and its own filing and case management systems, and this arrangement results in redundant and

inconsistent, non-interoperable procedures and systems across State government, with some agencies using electronic filing systems while other agencies do not and with some agencies sending and receiving documents by email while others do not; and

**WHEREAS**, because State agencies use multiple disparate systems, data across the State are isolated in agency-specific applications, and as a result agencies cannot easily share data to more efficiently serve businesses and citizens and save taxpayer resources; and

**WHEREAS**, some State agencies have so little administrative support for their adjudicators that the adjudicators themselves must take time away from conducting hearings and drafting decisions in order to schedule hearings, arrange for interpreters, copy documents and perform similar tasks, all of which increases case backlogs and the amount of time citizens must wait to receive decisions; and

**WHEREAS**, currently, the amount of resources and personnel each State agency with adjudicators expends varies greatly and does not necessarily bear a relation to the number of claims received and adjudicated by that agency; an assessment of State agencies' use of their resources for administrative hearings is required to determine if they are efficiently and effectively providing a high level of service, transparency, accountability, timely resolutions, efficient practices and procedures; and

**WHEREAS**, 30 states have established, either by statute or executive order, some form of a centralized office to preside over the state's administrative hearings and more efficiently manage their large administrative caseloads; and

**WHEREAS**, the purpose of this Executive Order is to initiate a pilot program through which the State will provide some central, uniform administrative support to a limited number of State agencies and to determine whether further consolidation should be considered through a subsequent Executive Order or legislation;

**THEREFORE**, I, Bruce Rauner, Governor of Illinois, by virtue of the executive authority vested in me by Section 11 of Article V of the Constitution of the State of Illinois, do hereby order as follows:

## **I. DEFINITIONS**

"Adjudicator" means an administrative law judge, hearing officer, hearing referee, or other State employee who conducts hearings on behalf of a State agency under the authority of the Office of the Governor pursuant to the Administrative Procedures Act.

"Bureau" means the CMS Bureau of Administrative Hearings.

"CMS" means the Department of Central Management Services.

"Pilot period" means the period from the effective date of this Executive Order until June 30, 2017, subject to extension by the Office of the Governor.

"State" means the State of Illinois.

## **II. CREATION OF THE BUREAU OF ADMINISTRATIVE HEARINGS**

The Director of CMS shall create within CMS the Bureau of Administrative Hearings (the "**Bureau**"). The Director of CMS shall also appoint the Bureau Chief from its existing legal staff. The Bureau shall exist only during the pilot period, unless continued by subsequent Executive Order, administrative rule, or Public Act.

The Bureau shall invite up to ten State agencies (or such other number of State agencies as approved by the Office of the Governor) to participate in an administrative hearing support program during the pilot period. The Bureau shall enter into an interagency contract with each participating State agency, as authorized by the Intergovernmental Cooperation Act and other applicable law. Pursuant to such contract, the Bureau shall develop training programs for adjudicators; improve the process for assigning cases among adjudicators; promote shared resources among participating State agencies; develop uniform rules of procedure and recommend revisions to the agency's administrative rules on administrative hearings; develop a

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standard code of professional conduct for adjudicators; and in cooperation with the Department of Innovation and Technology ("DoIT"), implement modern, uniform filing and case management systems.

As part of their focus on providing excellent customer service, State agencies should actively track case backlogs and workflows. Coordination among State agencies and the Bureau shall ensure efficiency and effectiveness through cooperation in the development of uniform rules of procedure and a standard code of professional conduct and through the sharing of resources and information necessary to determine the efficacy of the pilot program. The Bureau should monitor and seek to eliminate backlogs and inefficiencies wherever they exist, and should identify where these goals are hindered by disconnects in communication, poor or nonexistent electronic case management systems and decentralized operations.

The Bureau shall investigate and determine whether and to what extent the further consolidation of adjudicators, administrative hearing and support functions, and associated resources among State agencies would result in a more efficient, timely, and responsive administrative hearing system. Such consolidation would be accomplished by subsequent Executive Order or Public Act. The Bureau shall consider, without limitation, whether consolidation would enable more efficient administrative procedures, greater customer satisfaction, greater public trust and confidence, reduced backlog of cases, and any cost savings or cost avoidance.

The Bureau Chief shall meet with the Office of the Governor and the Director of CMS by each of June 30, 2016 and December 31, 2016, to report on, and assess the impact of the administrative hearing support program. The Bureau Chief also shall describe the Bureau's investigation and determination with respect to further consolidation, as contemplated above, and include the Bureau's recommendations for any further reforms. By July 30, 2017, the Bureau Chief shall submit a written report to the Governor and the General Assembly and include the Bureau's recommendations for any subsequent reforms.

### III. SAVINGS CLAUSE

1. This Executive Order does not, and shall not be construed to, transfer any rights, powers, duties, functions, property, personnel, or funds from, to, or among State agencies; each State agency continues to have whatever authority is provided to it pursuant to the Intergovernmental Cooperation Act and other applicable law to enter into interagency contracts, which may include permissible transfers.
2. This Executive Order shall not affect any act undertaken, ratified, or cancelled or any right occurring or established or any action or proceeding commenced in an administrative, civil, or criminal case before this Executive Order takes effect, but these actions or proceedings may be prosecuted and continued by the Bureau in cooperation with the State agency, if necessary.
3. This Executive Order shall not affect the legality of any rules in the Illinois Administrative Code that are in force on the effective date of this Executive Order, which rules have been duly adopted by the pertinent agencies. If necessary, however, the affected agencies shall propose, adopt, or repeal rules, rule amendments, and rule recodifications as appropriate to effectuate this Executive Order.
4. This Executive Order does not contravene, and shall not be construed to contravene, any federal law, State statute, or collective bargaining agreement.

### IV. PRIOR EXECUTIVE ORDERS

This Executive Order supersedes any contrary provision of any other prior Executive Order.

### V. SEVERABILITY CLAUSE

If any part of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

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**VI. EFFECTIVE DATE**

This Executive Order shall take effect upon filing with the Secretary of State.

  
Bruce Rauner, Governor

Issued by the Governor: April 29, 2016

Filed with Secretary of State: April 29, 2016

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