

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER f: GENERAL ADMINISTRATION

PART 434

AUDITS, REVIEWS, AND INVESTIGATIONS

Section

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AUTHORITY: Implementing and authorized by Section 4 of the Children and Family Services Act [20 ILCS 505/4] and the Fiscal Control and Internal Auditing Act [30 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 8634, effective September 1, 1981; amended at 8 Ill. Reg. 133, effective December 30, 1983, amended at 18 Ill. Reg. 6697, effective May 1, 1994; emergency amendment at 18 Ill. Reg. 8944, effective June 3, 1994 for a maximum of 150 days; emergency expired on October 31, 1994; amended at 19 Ill. Reg. 2760, effective February 27, 1995; amended at 21 Ill. Reg. 15469, effective December 15, 1997; amended at 26 Ill. Reg. 3021, effective February 15, 2002; amended at 27 Ill. Reg. 7971, effective April 30, 2003; amended at 29 Ill. Reg. 8732, effective June 8, 2005; amended at 31 Ill. Reg., effective May 31, 2007.

Section 434.1 Purpose

The purpose of this Part is to define the scope of the audits/reviews and investigations conducted by the Department. This Part also explains the process the Department will use when conducting audits/reviews and investigations of private agencies that contract with the Department, and agencies that are licensed by the Department.

(Source: Amended at 29 Ill. Reg. 8732, effective June 8, 2005)

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Section 434.2 Definitions

"Audit/Review" means an examination of financial transactions, accounts and reports, and an evaluation of internal controls or an evaluation of compliance with applicable laws and regulations. An audit/review may also include an examination of efficiency and economy in the use of resources (such as personnel, property, space), or an examination to determine whether desired results are effectively achieved.

"Certified Audits" means the entity's annual financial and compliance report that has been examined by an Independent Licensed Certified Public Accountant.

"Cost Report" means a report of all costs incurred and revenue earned by a provider that are directly associated with services purchased by the Department for its clients.

"Department" or "DCFS" means the Illinois Department of Children and Family Services.

"Desk Review", as used in this Part, means a review by the Department's Office of Field Audits of certified public audits and cost reports submitted by the provider agency.

"Field Auditor" is a Department employee whose responsibilities include conducting audits of contracted purchase of service providers to confirm their compliance with applicable laws and regulations, and to make recommendations to the Director regarding the results of those audits.

"Follow-up Review" means a viewing of past occurrences or contemplation or consideration of past events, circumstances, or facts.

"Investigation" means an examination of employee conduct, security systems, and contractor conduct to assure compliance with State, federal and Departmental rules and regulations. A Department investigation is not intended to focus on criminality or prepare cases for prosecution, but rather to obtain sufficient documentation to assure the Director of the appropriateness of Department and service provider employee conduct and the safeguarding of Department assets.

"Limited Review" means an examination of financial transactions, accounts and reports, an evaluation of internal controls, or an evaluation of compliance with applicable laws and regulations that is limited in scope to examine only certain areas. (Although this is not a full scope audit, it may include an examination of efficiency and economy in the use of resources (such as personnel, property, space) and an examination to determine whether desired results are effectively achieved.)

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"Preliminary Review" means a limited review of financial transactions, accounts, reports and internal controls and compliance with contract provisions to assess the full scope needed during an upcoming audit.

"Related Party Transaction" means a financial transaction in which one party has the ability to influence the management or operating policies of the other party. Disclosure of related party transactions should include the nature of the relationship, a description of the transactions, including dollar amounts, and amounts due to and from related parties.

"Scope of the Audit or Investigation" means the activities and testing procedures that the auditor or investigator deems necessary to conduct an examination or investigation.

(Source: Amended at 29 Ill. Reg. 8732, effective June 8, 2005)

Section 434.3 Audit Standards to be Applied and Audit Procedures to be Followed for Office of Field Audits – OFA

The audits of entities shall be performed in accordance with the Government Auditing Standards (United States General Accounting Office, 2002).

(Source: Amended at 27 Ill. Reg. 7971, effective April 30, 2003)

Section 434.4 Scope of the OFA Audit/Review or Investigation

- a) The Department reserves the right to conduct audits/reviews, limited reviews, follow-up reviews and/or investigations of entities that contract with or are licensed by the Department. The Department may elect to designate qualified individuals to do this on its behalf when an independent (non-DCFS) audit is required by law or contract. Outside independent auditors will be used to conduct audits when a grant award from an outside funding source requires an independent certified audit as a condition of the grant. Audits/reviews and investigations shall encompass some or all of the following general objectives:
- 1) an examination of financial transactions, accounts, and reports, including an evaluation of compliance with applicable laws and regulations and Department rules.
 - 2) an evaluation of whether the entity is maintaining effective control over revenues, expenditures, assets and liabilities.
 - 3) an examination to verify that financial and cost reports contain accurate and reliable financial and client service data, and are presented fairly.

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- 4) an examination to verify that related party transactions are properly accounted for and disclosed appropriately.
 - 5) an examination to verify that funds are used for their stated purpose as prescribed in the contract with the Department.
 - 6) an examination to verify that costs and services were incurred, expended or provided as billed.
- b) A preliminary review of entities may be conducted prior to the full audit. The purpose of the preliminary review is to define and limit the general objectives of the audit so that the audit can be conducted in an efficient manner. The preliminary review may encompass a selective review of financial transactions, accounts, reports, internal controls and compliance with contract provisions. At the conclusion of this review and based upon the results, the auditors may:
- 1) conduct a full scope audit that encompasses all of the general objectives. A full scope audit will be conducted when major internal control weaknesses or significant deviations from generally accepted accounting principles are observed during the preliminary review.
 - 2) conduct a limited scope audit to include only the areas of observed weaknesses in the entity's recordkeeping or compliance with contracts. A limited scope audit will be conducted when weaknesses in internal controls are observed or minor deviations from generally accepted accounting principles are observed during the preliminary review.
 - 3) cancel additional field work if no major areas of weaknesses are observed in the entity's recordkeeping or compliance with contracts.
- c) In the event that a full or limited scope audit is not completed, a written report of the results of the preliminary review shall be prepared and distributed as specified in [Section 434.5](#) of this Part.
- d) Current employees of entities or licensees and/or clients of the Department will be interviewed as necessary in conjunction with audits/reviews, limited reviews, and investigations.
- e) The scope of the OFA's audit/review or investigation is not intended to identify fraud; but when fraud is suspected, the Department reserves the right to surrender all records pertaining to the audit/review or investigation to the appropriate law enforcement body without notice to the entity with whom the Department has the contracts.

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- f) Follow-up reviews may be conducted when entities have had major internal control weaknesses identified in the final audit report. Major internal control weaknesses include, but are not limited to, the following:
- 1) lack of controls over cash accounts or petty cash controls,
 - 2) lack of control over fixed assets,
 - 3) noncompliance with recordkeeping contractual requirements,
 - 4) major deviations from generally accepted accounting principles in the provider's financial reporting and recordkeeping practices,
 - 5) major deviations from federal or State law or Department rules and procedures.

(Source: Amended at 27 Ill. Reg. 7971, effective April 30, 2003)

Section 434.5 Reports of OFA Auditors

- a) All entities that undergo a Department audit, review or investigation shall be provided a draft copy and a final copy of the report.
- b) The audited entity shall be provided with a draft copy of the audit or review within 30 business days after the fieldwork is completed. Fieldwork may include additional work after the "onsite" work has been completed. At that time, the entity will be requested to provide written comments on the findings and recommendations corresponding to each issue. The draft copy will be distributed to the appropriate officials of the Department and the audited entity.
- c) The draft report shall present findings and detailed supporting information to the extent necessary to clarify the findings. Where possible, the report shall contain the auditor's recommendations to effect improvements in problem areas noted in the audit and to otherwise make improvements in operations.
- d) Upon receipt of the draft report, the entity may submit a response to the findings and recommendations. The response must be submitted to the Office of Field Audits within 30 business days after the date of receipt of the draft report.
- e) A final report shall be issued within 30 business days after the date of the draft report unless the entity requests an exit conference or an administrative hearing of the audit findings per [Sections 434.6](#) and [434.10](#) of this Part.

(Source: Amended at 27 Ill. Reg. 7971, effective April 30, 2003)

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Section 434.6 Exit Conferences

All entities that undergo a Department audit, review or investigation shall be given the opportunity for an exit conference and an administrative hearing of the Department's findings and recommendations. The requirements for requesting a review of the findings and recommendations are as follows:

- a) After receipt of the draft report or desk review report, the entity may request an exit conference. The request for an exit conference must be received within 15 business days after receipt of the draft report or desk review report. The request must be sent to the Department's Office of Field Audits and must explain which findings and recommendations the entity does not understand or does not agree with.
 - 1) The exit conference shall be scheduled within 15 business days after the request and shall be a general discussion between the agency representatives and the auditors who performed the fieldwork or desk review. Proposed responses to the draft report or desk review may be presented at the time of the discussion.
 - 2) When an exit conference is held, the final report shall contain a brief narrative regarding the date that the conference was held; the names of the persons attending; the topics discussed, and any mutually agreed changes to the draft or report that were decided upon during the exit conference.

- b) If the entity disagrees with the audit findings, it may request an administrative hearing regarding the findings and recommendations. A request for an administrative hearing must be received in writing within 15 business days after the conclusion of the exit conference and shall be directed to the administrator of the Administrative Hearings Unit with a copy forwarded to the Office of Field Audits. A request for an administrative hearing must be accompanied by supporting documents or factual matter that refutes or modifies the Department's draft findings.

(Source: Amended at 27 Ill. Reg. 7971, effective April 30, 2003)

Section 434.7 Certified Audits, Cost Reports and Desk Reviews

- a) The Department's requirements for providers include the annual filing of a cost report in accordance with 89 Ill. Adm. Code 356 (Rate Setting) and an audit report in accordance with 89 Ill. Adm. Code 357 (Purchase of Service) and 360 (Grants-in-Aid).

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- b) The certified audit reports are reviewed by the Office of Field Audits and the cost reports are reviewed by the Rate Setting Unit and, when appropriate, a report on the certified audit or cost reports will be issued to Department officials who are responsible for the contracts. The general objectives of the desk review and report shall determine whether:
 - 1) financial and service unit information is appropriately presented and is consistent with the generally accepted accounting principles;
 - 2) costs incurred in operating the contracted service are not less than the revenues received directly for the program;
 - 3) related party transactions are appropriately recorded and disclosed;
 - 4) significant accounting practices and other information that require disclosure (as described by generally accepted accounting principles) are disclosed appropriately; and
 - 5) funds were used in accordance with Department policy and whether the entity has received monies in excess of actual reimbursable costs.
- c) The Office of Field Audits is responsible for answering all questions regarding the preparation of a certified audit. If the Department has not received the certified audit by the deadline of 180 calendar days after the completion of the entity's fiscal year, the Department will notify the entity of the delinquency and send a copy of the notice to the Department's Contracts and Grants unit and regional administrative staff.
- d) All certified audit reports are logged in upon receipt by the Office of Field Audits and a check-in list is prepared for each audit received. If the audit does not contain adequate information, the Office of Field Audits will send a letter to the entity to request additional information. If the certified audit does not meet the standards set out in 89 Ill. Adm. Code 357.120 (Purchase of Service Fiscal Reports and Records), the entity will be given 10 business days to submit omitted items or 30 business days to submit a new certified audit.
- e) The Office of Field Audits will prepare a desk review report that will highlight any deficiencies that are found in the audit and will contain specific recommendations for procedural changes in the preparation of certified audits. The completed desk review report will be sent directly to the entity, with a copy to appropriate Department regional staff.
- f) Department regional staff are responsible for reviewing the recommendations contained in the desk review report and providing assistance as necessary to the entity in follow-up on the recommendations made. The desk review report may contain recommendations for contract or budget revisions that must be acted upon by the regional staff.

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- g) The desk review report may contain recommendations that require an additional response from the entity before the certified audit is accepted. The entity's response and concurrence with the recommendations of the desk review report will close the desk review process.
- h) Effective with cost reports received for contract periods ending after July 1, 2003, excess revenue calculations shall be based on the information reported in the Cost Report or other suitable financial report accepted by the Department. The certified independent audit report may be used to develop excess revenue calculations if sufficient detail exists within the report to support the excess revenue calculations, and an accurate cost report or other suitable financial report is not available.
 - 1) Programs Subject to Excess Revenue Determination:

The Department shall determine individual program excess revenues attributable to Department funding for contracted provider agency 24-hour substitute care programs. Examples of provider agency programs include, but are not limited to:

 - A) childcare institutions;
 - B) shelter care;
 - C) group homes;
 - D) independent living;
 - E) community integrated living arrangements;
 - F) agency foster care; and
 - G) other programs or contracted agencies, as determined by the Director or his/her designee.
 - 2) Excess Revenue Determination Procedure
 - A) Excess revenue is the amount of purchase of service fees and governmental grant funding that exceeds total audited costs, less:
 - i) disallowable costs as listed in 89 Ill. Adm. Code 356.60 (Disallowable Cost and Reduced Reimbursement);
 - ii) fringe benefit costs, as defined in 89 Ill. Adm. Code 356.20 (Definitions), that exceed 25% of salaries and wages; and
 - iii) administrative costs that exceed 20% of all other allowable costs.

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- B) For excess revenue determinations, profit is considered as an allowable cost to the extent permitted in 89 Ill. Adm. Code 356 (Rate Setting).
 - C) Excess revenue attributable to Department funding is the amount of program excess revenues times Departmental revenue divided by all program purchase of service fees and government non-restricted grants.
- 3) Excess Revenue Amounts that May Be Retained
- A) In each fiscal year, provider agencies may retain an amount of program excess revenues attributable to substitute care programs reimbursed through payments made according to standard reimbursement levels or through individual historical cost based program rates calculated consistent with the process and standards defined in 89 Ill. Adm. Code 356, provided that:
 - i) for programs with a licensed capacity, the total utilization is between 85% and 95% of the licensed or approved program capacity;
 - ii) for all programs receiving an enhancement, the provider agency demonstrates that the intended funding of the enhancement has been met without supplanting other contracted services or costs; and
 - iii) the provider agency demonstrates that program staffing level meets the minimum requirements defined in the contract program plan and licensing standards where applicable.
 - B) The amount retained may not exceed the DCFS portion of 7% of the program reimbursable costs less the DCFS portion of excess administrative costs. Programs reimbursed through rates containing an enhancement add-on (see 89 Ill. Adm. Code 356.80) are not eligible to retain excess revenue amounts in the year in which the enhancement was granted.
 - C) All DCFS identified program excess revenue amounts retained by the provider agency must be invested in direct service (non-administrative) activities in programs funded by the Department. Provider agencies unable to demonstrate that retained program excess revenue amounts have been invested consistent with the provisions of this subsection (h)(3) will be subject to forfeiture of the retained funds.

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- 4) **Amounts Returned to the Department**
Amounts to be returned to the Department must be received within 60 days after the date the excess revenue amount has been finalized and notification is mailed to the provider agency's director or his/her designee or after a payment plan has been approved.
- 5) **Program Excess Revenue Offsets**
Program excess revenue may not be offset against other program deficits occurring in the year reviewed, or any other year, without the approval of the Director or his/her designee.

(Source: Amended at 31 Ill. Reg., effective May 31, 2007)

Section 434.8 Records Maintenance and Availability for Audit

All records specified in the Department's rules on Service Delivery (89 Ill. Adm. Code 300-313), Fiscal Administration (89 Ill. Adm. Code 351-362), and Licensing Standards (89 Ill. Adm. Code 377 - 410, as appropriate for the facility type), and any documents that support financial transactions or billing statements, or that should be included in a case or personnel file must be maintained by the provider for a period of five years. Department requests for review of records shall be subject to the following guidelines:

- a) entities shall be issued a written request to provide required records by properly authorized Department staff or designees at the commencement of desk review, limited review, preliminary review, limited scope audit, full scope audit or receipt of a questionable business paper;
- b) if the records (requested in writing) are not provided within 15 business days after the date of the request, the Department's Director or authorized designee shall issue a subpoena for the requested records;
- c) continued failure to provide the requested records shall, with the Director's approval, result in termination of the Department's contract with the entity and forfeiture or withholding of payment.

(Source: Amended at 27 Ill. Reg. 7971, effective April 30, 2003)

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Section 434.9 Responsibilities of the Office of Field Audits

The Department of Children and Family Services is mandated by the Fiscal Control and Internal Auditing Act [30 ILCS 10] to monitor, report on, and enforce Department compliance with Federal and State statutes, Department rules, policy, and management directives, as well as to ensure the integrity of Department assets through the review and monitoring of internal auditing controls. The Associate Deputy Director reports and is directly responsible to the Deputy Director of the Purchase of Service Monitoring Division. In order to fulfill their duties, the Department's Office of Field Audits regularly undertakes audits and annual Desk Reviews of purchase of service providers and other entities that have contracts with or are licensed by the Department in order to assess their compliance with contracts, federal and State rules and regulations.

(Source: Amended at 27 Ill. Reg. 7971, effective April 30, 2003)

Section 434.10 Administrative Hearings of Draft Audit Findings and Recommendations

- a) When a request for an administrative hearing is received, the administrator of the Administrative Hearings Unit may grant a request for a hearing only when:
 - 1) the written request for an administrative hearing was received by the Department within the 15 calendar days following the conclusion of the exit conference;
 - 2) the request was accompanied by supporting documents or factual matters which refute or modifies the Department's draft finding; and
 - 3) the issue is within the jurisdiction of the Administrative Hearing Unit.
- b) The administrator of the Administrative Hearings Unit shall dismiss a request for an administrative hearing only when:
 - 1) The appeal has been withdrawn in writing.
 - 2) The appeal has been abandoned. Abandonment shall be deemed to have occurred if the appellant, the appellant's authorized representative, or an individual legally authorized to act on behalf of the appellant fails to appear at the hearing and the appellant does not have an adequate cause for failing to appear. Adequate cause for failing to appear at an administrative hearing may include but is not limited to:
 - A) death in the family of the appellant or in the family of the appellant's representative;

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- B) serious illness of the appellant or the appellant's representative or serious illness in either person's immediate family;
 - C) transportation difficulties that make it impossible for the appellant or representative to appear at the hearing; or
 - D) failure of the Department to give notice of the hearing on the appellant or representative at the last known address available to the Department. However, it is the appellant's responsibility to keep the Department updated on any change of address.
- 3) the issue is not within the jurisdiction of the appeal system;
 - 4) the request for an administrative hearing was not received within 15 calendar days following the conclusion of the exit conference;
 - 5) the appellant failed to notify the administrator of the Administrative Hearings Unit of a change of address, and a notice of the administrative hearing cannot be delivered.
- c) The Department shall provide written notice of the decision to grant or deny the request for an administrative hearing within 20 calendar days of receipt of the request for an administrative hearing. If the administrator of the administrative hearings unit finds that the issue is not appealable under this Part, but can be appropriately heard through another appeal process, in accordance with 89 Ill. Adm. Code 435 (Administrative Appeals and Hearings), the Department shall forward the appeal to the proper hearing authority and notify the appellant of this action.
- d) The administrator of the Administrative Hearings Unit shall:
- 1) schedule the hearing at a date within 30 calendar days of the date of the appellant's written request for hearing;
 - 2) ensure that the administrative hearing is scheduled at a time and place reasonably convenient for all parties. If the parties cannot agree to a reasonably convenient time and place, the administrator shall make this determination and proceed to schedule the hearing;
 - 3) provide a written notice to the appellant at least 15 calendar days before the scheduled hearing, which shall contain the following information:
 - A) the date, time and location of the hearing;

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- B) a statement that the appellant or appellant's representative's failure to appear at the hearing without adequate cause may be deemed an abandonment of the request, thus constituting a waiver by the appellant of the right to a hearing; and
 - C) a statement of the parties' rights during the appeal process.
- e) An appellant may bring a representative, including legal counsel, to the hearing. Expenses of a representative or of an appellant's witnesses shall be paid by the appellant.
 - f) An appellant may request the Department employee who had direct involvement in the audit, or other persons who may have information relevant to the issues in dispute to attend the hearing by asking the administrator of the administrative hearings unit to issue appropriate subpoenas. Witness fees and travel expenses for persons other than Department employees are the responsibility of the party requesting the subpoena.
 - g) Any motions from the appellant or the Department shall be filed with the administrative law judge at least 10 calendar days before the hearing. Copies shall be provided simultaneously to the Department's representative and the appellant.
 - h) At the appellant's request, the Department shall provide an interpreter at no cost to the appellant if English is not the appellant's primary language or a sign interpreter if the appellant is hearing impaired.
 - i) Both the appellant and the Department have the right to examine and copy documents and other information to be used by either party and to receive a list of witnesses to be called by either party at the hearing by requesting them at least 10 calendar days before the hearing. If a party fails to disclose evidence and then seeks to introduce it at the hearing, the administrative law judge shall consider the surprise or prejudice to the other parties, including prior disclosure during the audit process. The administrative law judge's authority includes adjourning or continuing the hearing to a later time or date to permit the other parties to examine the evidence and prepare their cases accordingly.
 - j) During the administrative hearing, the appellant and the Department have the right to:
 - 1) present and question witnesses;
 - 2) present any information relevant to the issues;
 - 3) question or disprove any information, including an opportunity to question opposing witnesses; and

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- 4) dispose of any disputed issue by mutually agreeing to a resolution any time prior to the conclusion of the administrative hearing.
- k) In an administrative hearing concerning audit findings:
- 1) the Department carries the burden of proof by preponderance of the evidence; and
 - 2) the administrative law judge has the authority to recommend changes in the audit findings record.

l) Appointment of the Administrative Law Judge

The administrator of the Administrative Hearings Unit shall select and the Director shall appoint a trained impartial administrative law judge from the available pool to conduct the appeal hearing. The administrative law judge shall:

- 1) be an attorney licensed to practice law in the State of Illinois;
- 2) possess knowledge and information acquired through training and/or experience relevant to the field of child and family welfare law including familiarity with Department rules, procedures and functions;
- 3) not have been involved in the decision to take the action being appealed or have rendered legal advice to the decision maker on the issue; and
- 4) not have a personal or professional interest which interferes with exercising objectivity or have any bias against the parties or issues appealed. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest.

m) Functions of the Administrative Law Judge

The administrative law judge shall have all authority allowed under the Illinois Administrative Procedure Act [5 ILCS 100/1-1]. This authority shall include, but is not limited to, the following:

- 1) conduct a fair, impartial and formal hearing in which the strict rules of evidence do not apply;
- 2) provide for the recording of the hearing;
- 3) inform participants of their individual rights and their responsibilities:

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- 4) conduct preliminary and preferring telephone conference if necessary between the parties and/or their attorneys to provide information about the procedural aspects of the hearing, narrow the issues and discuss possible stipulations and contested points of law in order to expedite the actual hearing.
 - 5) take necessary steps to develop a full and fair record which contains all relevant facts;
 - 6) administer an oath or an affirmation to all witnesses;
 - 7) quash or modify subpoenas for good cause, including but not limited to, relevance, scope, materiality and emotional harm or trauma to the subpoenaed witness;
 - 8) preserve all documents and evidence for the record;
 - 9) rule upon evidentiary issues and contested issues of law at the hearing or take matters under advisement pending issuance of the written opinion and recommendation;
 - 10) order the removal of any person from the hearing room who is creating a disturbance whether by physical action, profanity or otherwise engaging in conduct which disrupts the hearing.
 - 11) identify the issues, consider all relevant facts and receive or request any additional information necessary to decide the matter in dispute, including but not limited to the submission of briefs, memoranda of law, affidavits or post hearing briefs; and
 - 12) present a written opinion and recommendation to the Director within 30 calendar days after the record of the administrative hearing is completed or transcript is received. The opinion shall contain a summary of the evidence, findings of fact, conclusions of law and a recommendation.
- n) Combined Hearings

When a common issue is raised, the Department may respond to requests for hearings from more than one appellant by conducting a single group hearing. The Department may also combine all issues raised by a single petitioner in one hearing. In all group hearings, the appeal system in this Part shall apply. Individuals shall be permitted to present their own cases separately. The Department, if required for the fair, efficient administration of the hearing or to prevent possible prejudice to the appellant, may sever any party or any issue from the combined hearing. The severed party or issue shall be heard separately.

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o) Making the Final Administrative Decision

The Director of the Department shall receive the recommended decision from the administrative law judge and shall agree, disagree, or modify the recommended decision. The Director's decision is the final administrative decision of the Department. If the decision requires corrective action by the Department, the Director shall appoint a Department staff person who shall be responsible for assuring compliance with the decision and within the timeframes prescribed within the decision.

p) Notice of the Availability of Judicial Review

The Department shall include a notice to appellants as part of the final administrative decision. This notice shall include the name of the person responsible for compliance, if applicable, and shall advise the appellants that under the provisions of the Administrative Review Law [735 ILCS 5/3-110] that they may seek judicial review of the Department's decisions if it is unfavorable to them within the statutory time frame.

q) Who Received Copies of the Final Administrative Decision

The appellant or authorized representative, the Department's representative, the administrative law judge, and the administrator of the administrative hearing unit, shall receive a copy of the final administrative decision.

r) Records of Administrative Hearings

The permanent record of the administrative hearing, and the final administrative decision shall be maintained by the administrator of the administrative hearings unit. All hearing decisions shall be available for public inspection during regular business hours. However, confidential information shall be deleted in conformance with 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department) and federal laws and regulations on confidentiality.

(Source: Former Section 434.7 renumbered to Section 434.8 and new Section adopted at 18 Ill. Reg. 6697, effective May 1, 1994)

Section 434.11 Referrals by Department Employees to the Investigations Unit (Repealed)

(Source: Repealed at 29 Ill. Reg. 8732, effective June 8, 2005)

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Section 434.12 Severability of This Part

If any court of competent jurisdiction finds that any section, clause, phrase, or provision of this Part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.

(Source: New Section added at 18 Ill. Reg. 6697, effective May 1, 1994)

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DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Distribution: X, Z

POLICY GUIDE 98.4

INDEPENDENT UTILIZATION REVIEWS (IUR)

RELEASE DATE: June 15, 1998

TO: Rules and Procedures Book Holders

FROM: Jess McDonald, Director

SUBJECT: Independent Utilization Review Process

Effective DATE: **July 1, 1998**

I. PURPOSE

The purpose of this Policy Guide is to formalize the process used by the Department in conducting programmatic reviews of certain mental health, psychiatric and related specialized services provided to children and youth for whom the Department is legally responsible.

II. PRIMARY USERS

The primary users of this Policy Guide are administrators of psychiatric hospitals, group homes, child care institutions and DCFS staff responsible for monitoring those services.

III. POLICY

In order to ensure the appropriateness and quality of services provided to the children and families it serves, the Department of Children and Family Services reserves the right to conduct audits/reviews, limited reviews, follow-up reviews or investigations of entities which contract with or who are licensed by the Department. The Director or his/her designee may elect to designate qualified individuals to perform such audits, reviews or investigations on behalf of the Department when an independent (non-DCFS) inquiry is deemed in the best interest of children served by the Department. Residential treatment facilities, hospitals, child care institutions, group homes and other entities providing services for children for whom the Department is legally responsible as well as clients of the Governor's Youth Services Initiative may undergo such programmatic reviews.

The Department will enter into an agreement with an independent consultant to perform independent utilization reviews (IURs) of mental health services and other specialized treatment provided by psychiatric hospitals and residential facilities.

A. Professional Advisory Committee

1. The Director will convene a Professional Advisory Committee (PAC) which will provide advice and consultation regarding the IUR process. The Professional Advisory Committee will consist of at least five and not more than ten individuals which will include child welfare professionals, Guardians Ad Litem, attorneys with child welfare experience, and child welfare advocates. Two members of the Professional Advisory Committee may be current employees or paid consultants to private agencies providing residential care or foster care. Professional Advisory Committee members will be appointed to a two year term. A simple majority of those appointed shall constitute a quorum. Professional Advisory Committee members will continue to serve on the Committee after the expiration of their term until they are reappointed or replaced by the Director.
2. The Director or the Deputy Director of Operations and Community Services will convene the Professional Advisory Committee at least quarterly to review the IUR process. The Professional Advisory Committee will examine all aspects of the IUR process including selection of agencies that are reviewed, content of the review, timeliness, report content, helpfulness of the review to the provider and general effectiveness of the review in improving the quality of care. Additionally, the Professional Advisory Committee will be convened as needed to review disputes between the Department and facilities or programs regarding the content of IUR reports or proposed corrective action plans and recommended resolutions.

B. How Programs Are Selected For Review

Independent utilization reviews of residential programs serving children for whom the Department is legally responsible are typically initiated by one of the following:

- (i) report(s) from caseworkers or others citing inadequate care or treatment;
- (ii) a pattern of unplanned or precipitous discharges, especially for the same behaviors that may have occasioned the original admission to the facility;
- (iii) an unusual incident or series of events suggesting that the program may lack the capacity or capability to provide appropriate care and treatment; or

- (iv) request from the chief executive officer of a private agency for an IUR and consultation.

When the Deputy Director of Operations and Community Services determines that any of the above conditions exist or that the health, safety or welfare of child(ren) for whom the Department is legally responsible is at risk, the Deputy Director of Operations and Community Services shall appoint a review team of persons qualified to review the program or facility in accordance with the procedures described below.

The Office of the Inspector General (OIG) will be notified when an IUR is initiated in order to coordinate with any existing OIG investigation.

C. Initiating the IUR

1. The IUR will be conducted under the direction of a representative of the independent consultant under contract with DCFS or a senior DCFS manager. DCFS senior administrators and clinical consultants to DCFS may serve on the review team. Upon arrival at the facility or program, the review leader will introduce himself/herself to the facility manager on duty and present appropriate identification and a letter of introduction, signed by either the DCFS Director or DCFS Deputy Director of Operations and Community Services. The letter of introduction will state the purpose of the review including the reason that the review was initiated. Refusal of person(s) on-site at the facility to accept the letter of authorization shall not prevent the team from beginning their review of the facility or program.
2. The team's initial site visit will be unannounced, and may be conducted during the evening hours in order for the review team members to observe staff and resident interaction under normal operating conditions.
3. In the event that the senior administrator who is responsible for the management of the facility or program is not on-site when the review begins, the facility or program manager/supervisor on duty will be requested to notify him or her of the review.
4. During the introduction, the review leader will explain the purpose and scope of the review.
5. The reviewers are authorized to review and copy any and all files, medical records, treatment plans or other material relating to services provided to children and youth for whom the Department is legally responsible and clients of the Governor's Youth Services Initiative (GYSI) who are presently in (or have been discharged from) the facility or program. The reviewers are

authorized to conduct private interviews with DCFS wards and GYSI clients away from facility or program staff.

6. During the site visit, the review team will inspect the physical plant for health and safety, as well the general living conditions of the facility. If, in the judgment of the review team, photographs would better document physical plant conditions, safety hazards or general living conditions, photographs of the physical plant may be taken.
7. The site visits will be conducted in a professional manner that is respectful to clients and staff. The reviewers will strive to minimize any disruption in services and unnecessary disturbance of clients.
8. The reviewers shall preserve the confidentiality of all clients. The reviewers will not interview or review the files of youth who are not clients of the Department.
9. Any evidence of child abuse or neglect shall be reported to the State Central Register (SCR) as required by the Abused and Neglected Child Reporting Act. In the case of out-of-state facilities, the report shall be filed with the appropriate public agency in that state.
10. Within 48 hours of commencing the review field work, the Deputy Director of Operations and Community Services, or his or her designee, will contact the senior administrator who is responsible for the management of the facility or program and provide him or her a tentative schedule for the review, including an estimated completion date.
11. When the initial field work has been completed, the review supervisor will conduct an exit interview with the senior administrator who is responsible for the management of the facility or program. Preliminary findings and observations will be shared at that time. The review leader will explain the time frame for the distribution of the draft review report and the facility's right for reconsideration of the findings in the draft review report (as specified below.)

D. Reporting and Reports

1. As the Director's designee, the Deputy Director of Operations and Community Services shall receive reports and recommendations regarding IURs. The distribution of draft reports will be limited to the private agency and designated senior Department managers. A report will not be considered to be final until the process listed below has been completed and any necessary compliance plan has been developed and agreed upon.

2. When the review team identifies serious deficiencies or urgent problems such as situations where child(ren) and youth have suffered actual physical or psychological harm because of substandard care or treatment or are at imminent risk of harm, the team leader shall immediately notify the State Central Register, the Deputy Director of Operations and Community Services and the agency executive director or senior administrator who is responsible for the management of the facility of the situation. Under such circumstances, the Department will take immediate and authoritative steps to protect the children and youth involved. Such steps may include placing a hold on placing additional child(ren) at a facility or program, or the removal of child(ren) currently in the facility or program and/or notification of responsible authorities when the review involves an out-of-state facility or program. The placement hold will be implemented by the Deputy Director of Operations and Community Services. The placement hold will remain in effect until the Department is satisfied that the agency has implemented sufficient changes to assure the safety and adequate programming for the child(ren) currently in the facility or program.
3. The IUR project manager will transmit a draft report to the Deputy Director of Operations and Community Services, with a copy to the Department Director, within ten working days after the completion of IUR field work.
4. Within five working days after receiving the draft report, the Deputy Director of Operations and Community Services will transmit one copy of the draft report to the Executive Director and President of the governing body of the facility or program. The facility or program will be asked to explain how it plans to resolve and remediate any deficiencies and findings noted in the draft report.
5. Within ten working days after receiving the written report, the facility or program representatives will submit a written response to the Deputy Director of Operations and Community Services. In its response, the reviewed entity may also cite its disagreement with any of the deficiencies or findings noted in the draft report and provide justification for its disagreement.
6. The Deputy Director of Operations and Community Services and the review leader will meet with the facility or program representatives within ten working days after receipt of their response to the draft report. The private facility or program representative may request that a member of the Professional Advisory Committee attend the meeting. At this meeting, the Department and the private facility or program representatives will strive to achieve agreement on a corrective action plan and to resolve any disagreements regarding the findings and recommendations of the draft

report. In the event that there are remaining disputes concerning the deficiencies and findings noted in the draft IUR report or the proposed corrective action plan, and the issues cannot be resolved between the private agency and the Deputy Director of Operations and Community Services, the matter will be referred to the Professional Advisory Committee.

7. In the event that the IUR identifies deficiencies or findings regarding the functions and actions of the Department and/or Department staff, the Deputy Director of Operations and Community Services will supervise the development of a corrective action plan to correct and remediate those items noted in the report relayed to the Department and/or Department staff. The corrective action plan will be submitted to the Director within ten working days after receipt of the draft IUR report.
8. If there is agreement between the Department and the facility or program, the Deputy Director of Operations and Community Services will finalize the IUR report and corrective action plan, if applicable, and submit to the Director for final approval. Copies of the final document(s) will be distributed to the facility or program, the Professional Advisory Committee and appropriate DCFS personnel. Any further distribution shall be authorized by the Director.

E. Dispute Resolution and Finalization

1. In the event that issue(s) remain in dispute following the meeting called for in item III.D.6 above, the facility or program and the Deputy Director of Operations and Community Services will file a report with the Director stating their position(s) and requesting the convening of the Professional Advisory Committee. Whenever practicable, the report from the Deputy Director of Operations and Community Services will be accompanied by a draft of the final IUR report and corrective active plan with the disputed issue(s) identified. The reports will be filed within ten working days after the meeting described above.
2. Within ten working days after the report and request for review, the Director or designee will convene a meeting of the Professional Advisory Committee. At that time, facility or program representatives, the IUR review supervisor and Department representatives will present documentation and oral arguments.
3. Within ten working days after the review meeting, the person who chaired the Professional Advisory Committee meeting, if other than the Director, will issue a report and recommendation to the DCFS Director regarding the issue(s) in dispute.

4. The DCFS Director will make the final decision on the items in dispute and notify the facility or program representatives and the Deputy Director of Operations and Community Services of the decision within ten working days.
5. The facility or program representatives and the Deputy Director of Operations and Community Services will then proceed with the development of the corrective action plan.
6. The Deputy Director of Operations and Community Services will finalize the IUR report and corrective action plan, if applicable, and submit to the Director for final approval.
7. Copies of final IUR reports and corrective action plans will be distributed to the facility or program and appropriate DCFS personnel for implementation., and to the Professional Advisory Committee. Any further distribution shall be authorized by the Director.

IV. AVOIDING CONFLICTS OF INTEREST

No one involved in the IUR process regarding a specific facility or program shall receive a contract to perform, consult or assist with compliance of any Corrective Action Plan or compliance plan resulting from the IUR process. This does not preclude the Department from amending the contract of a facility or program to reflect the cost of additional staff or provisions of a Corrective Action Plan.

V. FILING INSTRUCTIONS

Place this Policy Guide immediately after white pages Part 434 - Audits, Reviews and Investigations in your volume of rules and procedures.

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