

July 30, 2015

Secretary James T. Dimas
Illinois Department of Human Services
401 S. Clinton Street, 7th Floor
Chicago, IL 60607

Tracie Drew
Illinois Department of Human Services
100 S. Grand Ave. East, 3rd Fl.
Springfield, IL 62762

Members of the Joint Committee on Administrative Rules
700 Stratton Building
Springfield, IL 62706

Dear Secretary Dimas, Ms. Drew, and Honorable Members of JCAR:

Voices for Illinois Children, joined by the undersigned, hereby formally submits a complaint to the Joint Committee on Administrative Rules (JCAR) and to the Department of Human Services, and requests that the Joint Committee on Administrative Rules undertake an investigation, as authorized in Sec. 5-100 of the Illinois Administrative Procedure Act, concerning the emergency rule adopted by the Department of Human Services to the Child Care Act 89 IAC 50; 39 Ill Reg 10072, effective 7/1/15.

Our complaint is based on the failure of the Department of Human Services to follow procedures required by the Illinois Administrative Rules Act for the lawful adoption of emergency rules, and the Department's disregard for the health, safety, and welfare of Illinois citizens.

Further, we question the use of the emergency rule making process on an issue that has so clear an impact on the public as a whole, who deserve an opportunity to voice their concern prior to the implementation of such a sweeping change to a basic function of government.

The rule has already had a detrimental impact on children, families, and small businesses.

We request that the Department of Human Services voluntarily rescind its harmful emergency rule.

In addition, given that the emergency rule constitutes a serious threat to the public interest, safety or welfare, if the Department fails to voluntarily rescind its emergency rule, we request that JCAR, as permitted in Sec 5-120 of the IAPA, issue an objection that requires the Department of Human Services to immediately repeal the rule.

Specifically, we assert that the emergency rule implemented by the Department of Human Services affecting the Child Care Act 89 IAC 50; 39 Ill Reg 10072 does not comply with the Illinois Administrative Procedure Act:

- 1) The Department of Human Services violated Sec. 4-45 of the IAPA when it submitted the emergency rule without identifying a situation that reasonably constitutes a threat to the public interest, safety, or welfare.

Although in section 5-46.1(a) the IAPA considers the State's current financial situation to constitute an emergency, the Department failed to prove a direct link between the State's current financial situation and the emergency rule.

- 2) The Department of Human Services failed to follow guidelines for rulemaking found in Sec. 5-110 when it failed to "consider[r] alternatives to the rule that are consistent with the stated objectives of both the applicable statutes and regulations."

Further, the rule was not "designed to minimize economic impact on small businesses," including the child care providers and businesses whose employees utilize child care.

We, along with tens of thousands of Illinois families, eagerly await the response of the Department of Human Services and JCAR, and we look forward to working with you to improve the Child Care Act.

Sincerely,

Emily Miller

Policy and Advocacy Director

Voices for Illinois Children