

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
146.205	Amendment
146.215	Amendment
146.220	Amendment
146.235	Amendment
146.245	Amendment
146.265	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rules: January 15, 2020
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 43 Ill. Reg. 7047; June 21, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Changes and clarifications were made by: substituting the term "SLP" or "SLP setting" for "SLF" and "registered professional nurse" for "registered nurse"; clarifying the use of the term "serious mental illness"; and inserting form titles and numbers associated with the Determination of Need assessment results.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: These proposed amendments make updates to Supportive Living Program requirements.
- 16) Information and questions regarding these adopted rules shall be directed to:

Steffanie Garrett  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

HFS.Rules@Illinois.gov

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER d: MEDICAL PROGRAMS

## PART 146

## SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

## SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

## Section

146.100	General Description
146.105	Definitions
146.110	Participation Requirements
146.115	Records and Data Reporting Requirements
146.125	Covered Ambulatory Surgical Treatment Center Services
146.130	Reimbursement for Services

## SUBPART B: SUPPORTIVE LIVING PROGRAM (SLP) SETTINGS

## Section

146.200	General Description
146.205	Definitions
146.210	Structural Requirements
146.215	<del>SLP</del> Participation Requirements
146.220	Resident Participation Requirements
146.225	Reimbursement for Medicaid Residents
146.230	Services
146.235	Staffing
146.240	Resident Contract
146.245	Assessment and Service Plan and Quarterly Evaluation
146.250	Resident Rights
146.255	Discharge
146.260	Grievance Procedure
146.265	Records and Reporting Requirements
146.270	Quality Assurance Plan
146.275	Monitoring
146.280	Non-Compliance Action
146.285	Voluntary Surrender of Certification
146.290	Geographic Groups

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146.295	Emergency Contingency Plan
146.300	Waivers
146.305	Reporting of Suspected Abuse, Neglect and Financial Exploitation
146.310	Facility Management of Resident Funds

## SUBPART C: STATE HEMOPHILIA PROGRAM

Section	
146.400	Definitions
146.410	Patient Eligibility
146.420	Hemophilia Treatment Centers
146.430	Comprehensive Care Evaluation
146.440	Home Transfusion Arrangements
146.450	Obligations of the Department

## SUBPART D: CHILDREN'S COMMUNITY-BASED HEALTH CARE CENTERS

Section	
146.500	General Description
146.510	Definitions
146.520	Participation Requirements
146.530	Records and Data Reporting Requirements
146.540	Covered Children's Community-Based Health Care Center Services
146.550	Reimbursement for Services
146.560	Individuals Eligible for Services Provided in a Children's Community-Based Health Care Center
146.570	Prior and Post Approval of Services

SUBPART E: SUPPORTIVE LIVING PROGRAM (SLP) SETTINGS  
WITH DEMENTIA CARE UNITS

Section	
146.600	General Description
146.610	Structural Requirements
146.620	Participation Requirements
146.630	Resident Participation Requirements
146.640	Services
146.650	Reimbursement for Medicaid Residents
146.660	Staffing

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146.670	Assessment and Service Plan and Quarterly Evaluation
146.680	Monitoring
146.690	Reporting Requirements
146.700	Resident Rights
146.710	Discharge

## SUBPART F: BIRTH CENTERS

Section	
146.800	General Description
146.810	Participation Requirements
146.820	Record Requirements
146.830	Covered Birth Center Services
146.840	Reimbursement of Birth Center Services

## SUBPART G: SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES

Section	
146.900	General Provisions
146.910	Reimbursement

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

SOURCE: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; new Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. 13146, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19914, effective October 30, 1998; amended at 23 Ill. Reg. 5819, effective April 30, 1999; emergency amendment at 23 Ill. Reg. 8256, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13663, effective November 1, 1999; amended at 24 Ill. Reg. 8353, effective June 1, 2000; emergency amendment at 26 Ill. Reg. 14882, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 2176, effective February 1, 2003; emergency amendment at 27 Ill. Reg. 10854, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18671, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 14214, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 852, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg.

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4360, effective March 7, 2005; expedited correction at 29 Ill. Reg. 14127, effective March 7, 2005; amended at 29 Ill. Reg. 6967, effective May 1, 2005; amended at 29 Ill. Reg. 14987, effective September 30, 2005; amended at 30 Ill. Reg. 8845, effective May 1, 2006; amended at 31 Ill. Reg. 5589, effective April 1, 2007; emergency amendment at 31 Ill. Reg. 5876, effective April 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11681, effective August 1, 2007; amended at 33 Ill. Reg. 11803, effective August 1, 2009; emergency amendment at 36 Ill. Reg. 6751, effective April 13, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13885, effective August 27, 2012; amended at 37 Ill. Reg. 17624, effective October 28, 2013; expedited correction at 38 Ill. Reg. 4518, effective October 28, 2013; amended at 38 Ill. Reg. 13255, effective June 11, 2014; amended at 38 Ill. Reg. 13893, effective June 23, 2014; amended at 38 Ill. Reg. 15152, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15713, effective July 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 23768, effective December 2, 2014; emergency amendment at 39 Ill. Reg. 6945, effective May 1, 2015 through June 30, 2015; emergency amendment at 42 Ill. Reg. 13733, effective July 2, 2018, for a maximum of 150 days; emergency amendment to emergency rule at 42 Ill. Reg. 16311, effective August 13, 2018, for the remainder of the 150 days; emergency expired November 28, 2018; amended at 42 Ill. Reg. 16731, effective August 28, 2018; emergency amendment at 42 Ill. Reg. 17935, effective September 24, 2018, for a maximum of 150 days; emergency expired February 20, 2019; amended at 43 Ill. Reg. 6803, effective May 28, 2019; Subpart B and Subpart E recodified at 43 Ill. Reg. 7014; amended at 44 Ill. Reg. 2331, effective January 15, 2020.

## SUBPART B: SUPPORTIVE LIVING PROGRAM (SLP) SETTINGS

**Section 146.205 Definitions**

For purposes of this Part, the following terms shall be defined as follows:

"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish (42 CFR 488.301).

"Activities of Daily Living" or "ADL" means eating, bathing, dressing, transferring, toileting, walking and grooming.

"Advance Directive" means a power of attorney that gives a designated individual decision-making powers upon a person's incompetence. The Department of Public Health is required to make available a Uniform Do Not Resuscitate Advance Directive that may be used in all settings, the Statutory Will Declaration form, the Illinois Statutory Short Form Power of Attorney for Health Care, the

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statutory Declaration of Mental Health Treatment Form, and the summary of advance directives law in Illinois (Section 2310-600 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310-600]).

"Bank Nursing Facility Beds" means a choice by [SLPSLF](#) providers to participate by converting a distinct part of a nursing facility. Such facilities shall be allowed to retain the Certificate of Need for nursing beds that were converted.

"Complaint" means a phone call, letter or personal contact to the Department from a resident, family member, resident representative or any other interested person expressing a concern related to the health, safety or well-being of one or more [SLPSLF](#) residents.

"Comprehensive Resident Assessment Instrument" or "RAI" means the Department designated resident assessment instrument designed for use in [SLP settingsSLFs](#).

"Declaration of Mental Health Treatment" means a document that lets a person state he or she wants to receive electroconvulsive treatment (ECT) or psychotropic medicine when the person has a mental illness and is unable to make decisions for himself or herself. It also allows a person to say whether he or she wishes to be admitted to a mental health facility if unable to make that decision.

"Department" means the Illinois Department of Healthcare and Family Services.

"Determination of Need" or "DON" means the [assessment](#) tool used by the Department or the Department's authorized representative to determine functional needs of a resident or prospective resident of the [SLP in which the resident or prospective resident has been found to be in need of a nursing facility level of careSLF](#). A minimum score of 29 is required on the DON, [which indicates a nursing facility level of care](#), before payment may be authorized for the [SLPSLF](#) resident.

"Developmental Disability" or "DD" means a disability that is attributable to a diagnosis of mental retardation or related condition such as cerebral palsy or epilepsy that results in impairment of general intellectual functioning or adaptive behavior. This condition is manifested before the age of 22 and is likely to continue indefinitely. It results in substantial functional limitations in three or

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more areas of major life activities, such as self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living.

"Direct Care Staff" means staff that provides professional nursing services, assistance with activities of daily living or other personal needs or maintenance, or general supervision and oversight of the physical and mental well being of an individual.

"Distinct Part" means a separate building or an entire wing or other physically identifiable space of an existing nursing facility licensed under the Nursing Home Care Act or the Hospital Licensing Act that is operated as an ~~SLF~~ [SLP setting](#) distinguishable from the rest of the facility. The distinct part of a nursing facility will not be subject to provisions of the Nursing Home Care Act. The distinct part of a hospital will be subject to provisions of the Hospital Licensing Act while complying with provisions of this Subpart B. Distinct part does not include the conversion of an entire nursing facility or hospital.

"Do Not Resuscitate" or "DNR" means a medical treatment order that says cardiopulmonary resuscitation (CPR) will not be attempted if a person's heart and/or breathing stops.

"Durable Power of Attorney" means power of attorney given to a person designated as another person's agent giving broad powers to make health care decisions, including power to require, consent to or withdraw any type of personal care or medical treatment for any physical or mental condition, and to admit or discharge a person from any hospital, home or other institution.

"Financial Exploitation" means the act of obtaining control over a resident or his or her property and/or resources through deception or intimidation to the disadvantage of the resident and/or the profit of another and/or the intent of depriving the resident of the use, benefit or possession of his or her property and/or resources.

"Follow-up Care" means the response to, and documentation of, the service plan that is discussed with, and agreed to by, the resident and/or the resident's guardian. It may include, but is not limited to, physician referrals, revision of the service plan to incorporate nursing services, health promotion counseling and teaching self care in meeting health needs.

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"Freestanding Facility" means a separate building that is not part of an existing nursing facility or hospital. Freestanding facility includes new construction, an existing building or conversion of an entire nursing facility or hospital into an [SLP setting](#)~~SLF~~.

"Immediate Jeopardy" means a situation in which a provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment or death to a resident (42 CFR 488.301).

"Instrumental Activities of Daily Living" or "IADL" means activities related to independent living and includes preparing meals, managing money, shopping for groceries or personal items, performing light or heavy housework, and using a telephone.

"Licensed Nurse" means a person whose services are paid for by an [SLP](#)~~SLF~~ and who is licensed as a registered nurse, registered professional nurse, practical nurse or licensed practical nurse under the Nurse Practice Act [225 ILCS 65].

"Living Will" means a document that tells a person's health care professional whether the person wants death-delaying procedures used if the person has a terminal condition, and the person is unable to state his or her wishes. A terminal condition means an incurable and irreversible condition such that death is imminent, and the application of any death delaying procedures serves only to prolong the dying process. A living will allows for the administration of medication, sustenance, or the performance of any medical procedure deemed necessary by the person's attending physician to provide the person with comfort care.

"Mandated Reporter" is anyone identified in the Elder Abuse and Neglect Act [320 ILCS 20] that shall report suspected abuse while engaged in carrying out professional duties. A mandated reporter includes, but is not limited to, a professional or professional's designee while engaged in social services and the care of an adult age 60 and over. It also includes, but is not limited to, any occupation required to be licensed under the Dietetic and Nutrition Services Practice Act [225 ILCS 30], Nurse Practice Act, and Nursing Home Administrator Licensing and Disciplinary Act [225 ILCS 70], and field personnel of the Departments of Healthcare and Family Services, Public Health and Human Services and any county or municipal health department.

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"Medicaid" means the Department's Medical Assistance Program.

"Medicaid Resident" means a person with a [physical](#) disability (as determined by the Social Security Administration) age 22 years and over or a person who is age 65 years and over, who has been determined eligible for Medicaid payment for [SLP](#) services. Eligibility for a person residing in an [SLP setting](#) shall be determined in accordance with 89 Ill. Adm. Code 120.10 and 120.61 (excluding subsection (f) of Section 120.61). Provisions for property transfers as described at 89 Ill. Adm. Code 120.387 shall apply to a person residing in an [SLP setting](#). Provisions for the prevention of spousal impoverishment as described at 89 Ill. Adm. Code 120.379 shall apply to a person residing in an [SLP setting](#).

"Medical Assistance Program" means the program administered under Article V of the Illinois Public Aid Code [305 ILCS 5/Art. V] or successor programs and Title XIX of the Social Security Act (42 USC 1396) and related federal and State rules and regulations.

"Medication Error" includes, but is not limited to, incorrect dosage, medication given at incorrect time, wrong medication given, wrong route used or missed medication.

~~"Mental Illness" or "MI" means a diagnosis of schizophrenia, delusional disorder, schizoaffective disorder, psychotic disorders not otherwise specified, bipolar disorder, and recurrent major depression resulting in substantial functional limitations.~~

"Neglect" means a failure by the [SLP provider](#) to notify the appropriate health care professional, to provide or arrange necessary services to avoid physical or psychological harm to a resident, or to terminate the residency of a resident whose needs can no longer be met by the [SLP provider](#), causing an avoidable decline in function. Neglect may be either passive (non-malicious) or willful.

"Personal Allowance" means the \$90 minimum protected monthly amount of a Medicaid-eligible resident's income that is retained by Medicaid-eligible residents for their personal use.

"Progress Notes" means notes used to document the decline or improvement in a resident's status.

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"Rehabilitated Nursing Facility" means the conversion of a distinct part of an existing nursing facility into an [SLP settingSLF](#).

"Related Parties" means affiliates of an [SLP providerSLF](#); entities for which investments are accounted for by the equity method by the entire enterprise; trusts for the benefit of employees, such as pensions and profit-sharing trusts that are managed by or under the trusteeship of management; any general partner; management of the [SLP settingSLF](#); members of the immediate families of principal owners of the [SLP settingSLF](#) or its management; and other parties with which the [SLP providerSLF](#) may deal if one party controls or can significantly influence management or operating policies of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests. An entity or person shall be deemed by the Department to be a related party if it can significantly influence management or operating policies of the transacting parties or if it has an ownership interest in one of the transacting parties and can significantly influence the other to an extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests.

"Resident" means a person living in an [SLP settingSLF](#), including Medicaid residents as defined in this Section and individuals who are not eligible for Medicaid payment for [SLPSLF](#) services.

"Resident Assessment Instrument" or "RAI" or "Comprehensive Resident Assessment Instrument" means the Department designated resident assessment instrument designed for use in [SLP settingsSLFs](#).

"Room and Board" means the housing, utilities and meals provided under the resident contract. Unless otherwise specified in the resident contract, room and board does not include phone or cable charges.

"Security Deposit" means a payment used to secure the payment of rent or compensation for damage to property for residential property containing 25 units or more (see Security Deposit Interest Act [765 ILCS 715]). A security deposit may also include a pet deposit to secure payment for damage to the residential property. Damage to property shall not include normal wear and tear to an apartment or any other part of the [SLP settingSLF](#).

"Serious Mental Illness" means:

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A diagnosis of a major mental illness, such as schizophrenia, schizoaffective disorder, bipolar disorder, major depression, panic disorders, obsessive compulsive disorder, and any other disorder that could lead to a chronic disability that is not a primary diagnosis of dementia. If the person has both a dementia diagnosis and another psychiatric condition, the symptoms of dementia must be significantly more progressed than symptoms of the co-occurring psychiatric condition;

A disorder for which the duration is a significant life disruption or that required major treatment episodes within the past two years. This does not necessarily mean that the individual was hospitalized; and

That the disability or Level of Impairment is characterized by active behavioral health symptoms, within the preceding six month period, that significantly interfere with the individual's ability to interact interpersonally, concentrate, follow through with goals or needs, and/or adapt effectively to change.

"Services" means the personal and health care related services provided by an SLP provider~~SLF~~ pursuant to Section 146.230.

"Service Plan" means the written plan of care on the Department designated form that is developed for each resident based upon the initial assessment, annual comprehensive resident assessment or quarterly evaluation.

"Significant Change" means that there has been a decline or improvement in a resident's status that will not normally resolve itself without intervention by staff or by implementing standard disease-related clinical interventions, and the decline or improvement impacts more than one area of the resident's health status and requires revision of the Service Plan.

~~"SLF" or "Supportive Living Facility" means a residential setting that meets the requirements of this Subpart B.~~

"SSI" means Supplemental Security Income under Title XVI of the Social Security Act.

"Subcontractor" means any person who assumes any duties and responsibilities

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from an SLP provider~~SLF~~ for the performance of SLP~~SLF~~ services pursuant to Section 146.230.

"Supportive Living Program" or "SLP" means a residential setting that meets the requirements of this Subpart B or, for dementia care settings, the requirements of this Subpart B and Subpart E.

(Source: Amended at 44 Ill. Reg. 2331, effective January 15, 2020)

**Section 146.215 SLP~~SLF~~ Participation Requirements**

- a) Facilities or distinct parts of facilities that are certified in the SLP~~as SLFs~~ and are in good standing with provisions contained in this Subpart B and, when applicable, Subpart E are exempt from the provisions of the Nursing Home Care Act [210 ILCS 45], the Illinois Health Facilities Planning Act [20 ILCS 3960] and the Assisted Living and Shared Housing Act [210 ILCS 9]. Nursing facilities rehabilitating a portion of the facility to conform with this Subpart B shall be allowed to retain their Certificate of Need for the nursing facility beds that were converted until the conclusion of the project or until the facility wishes to withdraw from the project and convert the SLP setting~~SLF~~ beds back to NF beds.
- b) An SLP setting~~SLF~~ does not include:
- 1) A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois;
  - 2) A "long term care facility" licensed by the Nursing Home Care Act or Hospital Licensing Act. However, a nursing facility licensed under the aforementioned Acts can convert a distinct part to an SLP setting~~SLF~~;
  - 3) Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];
  - 4) Any "Community Living Facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];
  - 5) Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [405 ILCS 30];

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- 6) Any nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed of any well recognized church or religious denomination;
  - 7) Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];
  - 8) Any "Supportive Residence" licensed under the Supportive Residences Licensing Act [210 ILCS 65];
  - 9) Any freestanding hospice facility [210 ILCS 60];
  - 10) Any "life care facility" as defined in the Life Care Facilities Act [210 ILCS 40]; or
  - 11) Any "assisted living and shared housing establishment" licensed under the Assisted Living and Shared Housing Act [210 ILCS 9].
- c) In order to participate in the Supportive Living Program, ~~the building structure~~an SLF must be certified by the Department. To become certified, an SLP provider~~SLF~~ shall:
- 1) Submit an application to proceed toward certification.
    - A) Except in the case of a rehabilitated nursing facility, the Department shall only accept applications for sites where all apartments are devoted to SLP residents.
    - B) The Department shall evaluate each application according to factors including, but not limited to, geographic distribution, waiver limits, market feasibility, the needs of the population being served, the compliance histories of other facilities owned or operated in the State of Illinois by the applicant or a related party, community support from local government, environmental issues, operational experience with assisted living and financial stability. Applications that are found to be incomplete or inaccurate shall be

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returned to the applicant for completion and/or correction and must be resubmitted before the Department will evaluate them. The Department shall notify the applicant in writing that the application has been approved.

- C) Direct and indirect owners of five percent or more of the entity designated as the operator shall be disclosed to the Department.
- D) A recognized environmental condition found as the result of a Phase 1 Environmental Site Assessment (ESA) report shall result in a Phase 2 ESA to determine if significant amounts and concentrations of contaminants exist on the property. If contamination is found in Phase 2, the Department, prior to certification, may request subsequent testing, feasibility studies, and/or remediation.
- E) The Department may withdraw approval of any application if the [SLP building](#) fails to become operational (i.e., ready to admit residents) within 24 months after the Department's approval of the application. Prior to the operational deadline, the applicant may make a written request, including documentation justifying the need for an extension, that the Department grant an extension to the operational deadline. A request for an extension shall not exceed 12 months from the original operational deadline. The Department may grant an extension to the operational deadline. The Department shall not grant more than one extension to an approved [SLP](#) applicant ~~when~~where construction has not begun.
- F) A phase-in for opening may be approved upon the written request of the [SLP provider](#). The request shall include the anticipated completion date of the phase-in, a plan to ensure the safety of residents during the phase-in, and the floors and areas of the [SLP setting](#) impacted by the phase-in. Additionally, the [SLP provider](#) shall assure that all services continue to be available during the phase-in. The Department shall approve no more than a single phase-in.
- G) At any time prior to or subsequent to certification, the applicant

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shall report to the Department in writing any change to the application, as soon as such change becomes known to the applicant. These changes are subject to Department approval.

- 2) Submit a certificate of compliance signed by an architect that certifies that the project complies with applicable codes and all structural requirements found in Section 146.210.
- 3) Submit for approval prior to use a model of every type of resident contract to be used by the [SLP provider](#)~~SLF~~.
- 4) Submit for approval all policies that include, but are not limited to:
  - A) Waste removal plan pursuant to Section 146.210(t);
  - B) Participation criteria pursuant to Section 146.220;
  - C) Base rate services pursuant to Section 146.230;
  - D) Resident daily check plan pursuant to Section 146.230(n);
  - E) Employee hiring process pursuant to Section 146.235;
  - F) [SLP setting](#)~~SLF~~ manager experience pursuant to Section 146.235(b);
  - G) Staff training policy pursuant to Section 146.235(e);
  - H) Resident rights pursuant to Section 146.250;
  - I) Resident discharge policy pursuant to Section 146.255;
  - J) Grievance procedure pursuant to Section 146.260;
  - K) Quality assurance plan pursuant to Section 146.270;
  - L) Annual satisfaction survey policy pursuant to Section 146.270(a);
  - M) Emergency contingency plan pursuant to Section 146.295;

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- N) Prevention and reporting of abuse, neglect and financial exploitation policy pursuant to Section 146.305;
  - O) Staff and resident rules and responsibilities;
  - P) Infection control, including, but not limited to, hand-washing, proper handling and disposal of sharps, proper handling of linens soiled with body waste, and cleaning of floors that have been soiled;
  - Q) Water temperature plan pursuant to Section 146.210(s)(5); ~~and~~
  - R) Tuberculosis plan in accordance with the Control of Tuberculosis Code (77 Ill. Adm. Code 696);~~:-~~
  - S) [Potential resident inquiry and application for admission policy pursuant to Section 146.220; and](#)
  - T) [Non-discrimination policy.](#)
- 5) Pass an on-site review, conducted by the Department, that includes review of documentation that demonstrates physical plant, health and sanitation, and food preparation compliance with local and county ordinances and regulations; compliance with State building codes for the respective building type; and compliance with Section 146.210.
- 6) Enroll to participate in the Medical Assistance Program in accordance with 89 Ill. Adm. Code 140.11 and execute a provider agreement with the Department.
- d) The [SLP provider](#)~~SLF~~ shall accept the SSI rate (less the personal allowance) for room and board for Medicaid residents. If the [SLP provider](#)~~SLF~~ charges a private pay rate higher than the Medicaid rate, the [SLP provider](#)~~SLF~~ shall reserve not less than 25 percent of its apartments for Medicaid-eligible residents. Those [SLP settings](#)~~facilities~~ that set a commensurate rate for both private pay and Medicaid-eligible residents are not required to reserve apartments for Medicaid-eligible residents but must accept Medicaid-eligible residents on a first come, first served basis.

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- e) SLPSLF certification is not transferable or applicable to any location, provider, management agent or ownership other than that indicated on the provider agreement.
- 1) An SLP providerSLF shall notify the Department no fewer than 60 days prior to a change of ownership or management. The new owner shall complete an application for the Department's approval prior to the effective date of the change of ownership.
  - 2) Pursuant to 89 Ill. Adm. Code 140.11(f), an SLP providerSLF whose investor ownership has changed by 50 percent or more shall be required to submit a new application for enrollment in the Medical Assistance Program.
  - 3) Pursuant to 89 Ill. Adm. Code 140.12(k), a new owner assumes liability for repayment to the Department of any overpayment made to the SLP providerSLF, regardless of whether the overpayment was incurred by a current or previous owner or operator.
  - 4) The Department has the right to terminate the provider agreement with an SLP providerSLF if a change of ownership involves a barred Medicaid provider.
  - 5) The new owner shall comply with the applicable certification requirements found in subsection (c) ~~of this Section~~.
  - 6) The Department shall conduct an on-site certification review no later than at the date of the next annual certification review or within three months after the effective date of the change of ownership, whichever is earlier.
  - 7) SLPSLF certification shall be deemed to extend to a new owner until the Department separately certifies the SLP settingSLF under the approved new owner.
- f) SLPSLF applicants with an application approved by the Department to proceed toward certification shall not change ownership without the approval of the Department. The approved applicant shall notify the Department no fewer than 60 days prior to a change of ownership or management. Direct and indirect

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owners of five percent or more of the entity designated as the operator shall be disclosed to the Department. The new owner shall complete an application for the Department's approval prior to the effective date of the change of ownership.

- g) A request for a change in the number of apartments in an operational or approved SLP setting~~SLF site~~ shall be made with an application to the Department for approval. A change in the number of apartments includes both a decrease and increase. The Department shall conduct an on-site review prior to issuing a new certificate for the change in the number of apartments. In the case of an increase in apartments, residents shall not be admitted to the apartments until an on-site review is conducted and the Department issues a revised certificate.
- h) The certificate issued by the Department shall include:
- 1) Name and address of the SLP setting~~SLF~~;
  - 2) Maximum number of residents to be served at any time; and
  - 3) Number of apartments certified in the SLP setting~~SLF~~.
- i) Providers certified as an SLP provider~~SLF~~ shall not operate or maintain SLP~~SLF~~ housing and SLP setting services in combination with a home health, home care, nursing home, hospital, residential care setting, congregate care setting or other type of residence or service agency unless those settings and services are licensed, maintained and operated as separate and distinct entities.
- j) At least annually, the Department shall conduct an on-site review to ensure that the SLP setting~~SLF~~ is in compliance with the requirements of certification, which includes review of:
- 1) Items listed in subsection (c)(5) ~~of this Section~~.
  - 2) Comprehensive Resident Assessments, service plans and the provision of services required under Section 146.230.
  - 3) Staff sufficient in number to meet the needs of residents. Staff shall demonstrate capacity, within their job responsibilities, to provide covered services and perform tasks.

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- 4) Compliance with resident contracts and the Department's provider agreement.
- 5) Protection of individual resident rights and involvement in directing their own care.
- 6) Resident satisfaction surveys as defined in Section 146.270.
- k) The SLP provider~~SLF~~ shall comply with all applicable enrollment and participation requirements set forth in Department rules, including, but not limited to, 89 Ill. Adm. Code 140.11 and 140.12.
- l) The SLP provider~~SLF~~ shall comply with the Americans With Disabilities Act of 1990.
- m) The SLP provider~~SLF~~ shall submit to the Department all marketing materials prior to their use. If the Department does not notify the SLP provider~~SLF~~ of approval or disapproval of submitted materials within 30 days after submission, the SLP provider~~SLF~~ may begin to use those materials. The Department reserves the right to disapprove any materials or require changes at any time, provided that any such changes are consistent with, or required by, applicable law.
- n) The SLP provider~~SLF~~ shall ensure that limited English speaking residents have meaningful and equal access to benefits and services. Steps to ensure access may include, but are not limited to:
  - 1) hiring bi-lingual staff;
  - 2) hiring staff interpreters;
  - 3) contracting for interpreter services;
  - 4) engaging community volunteers;
  - 5) contracting with a telephone interpreter service; and
  - 6) hiring staff proficient in American Sign Language.

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- o) The SLP provider shall encourage families of residents with impairments that limit the resident's decision-making ability to arrange to have a responsible party or guardian represent the resident's interests. The SLP provider shall provide all residents with information about advance directives, including the Durable Power of Attorney for Health Care, Statement of Illinois Law on Advance Directives, Living Will, Declaration for Mental Health Treatment and Do Not Resuscitate Advance Directive. The SLP provider shall maintain in a resident's file any of these documents authorized by the resident.
- p) Upon admission of a resident whose name appears on the United States Department of Justice Dru Sjodin National Offender Public Website, the Illinois State Police Sex Offender Registration website or the Illinois Department of Corrections registered sex offender database (see Section 146.220(a)(4)), the SLP provider shall:
- 1) inform the Department and appropriate county and local law enforcement offices of the identity of the identified offenders being admitted to the SLP setting;
  - 2) notify every SLP resident and resident's guardian or family in writing that such offenders are residents of the SLP setting facility;
  - 3) develop a service plan in accordance with Section 146.245; and
  - 4) ensure that the SLP setting has qualified staff to meet the needs of the individual and required level of supervision at all times.

(Source: Amended at 44 Ill. Reg. 2331, effective January 15, 2020)

**Section 146.220 Resident Participation Requirements**

- a) The SLP setting may admit or retain residents whose needs can be met through the services described in Section 146.230. The following criteria shall be met prior to admission to the SLP setting:
- 1) Be age 22 years or over with a physical disability (as determined by the Social Security Administration) or elderly (age 65 years or over); ~~and~~
  - 2) Be screened by the appropriate Department on Aging contracted Care

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Coordination Unit (DoA CCU) or the Department of Human Services Division of Rehabilitation Services (DHS-DRS) other State agency screening agency entity and found to be in need of nursing facility level of care and that SLP placement is appropriate to meet the needs of the individual. A new Determination of Need (DON), or successor tool, screen is not needed for a resident who is transferring between SLP providers SLPs or comes from a nursing facility with no break in service. It is the admitting SLP provider's SLP's responsibility to ensure that a screening document is received from the transferring SLP setting SLP or nursing facility. If the individual is transferring directly from a nursing facility and has a history of a developmental disability or serious mental illness, as evidenced in the medical history accompanying the individual, the SLP provider must submit a referral for a specialized evaluation to be completed by the DHS Division of Developmental Disabilities (DHS-DDD) Independent Service Coordination (ISC) agency or the Division of Mental Health (DHS-DMH) Preadmission Screening Resident Review (PASRR) agency to evaluate for need for active treatment or the existence of serious functional risks and needs associated with the diagnosis to determine if they exceed the capacity of the SLP setting. Private pay individuals may choose to be admitted into the SLP setting SLP when the screening assessment does not justify nursing facility level of care; and

- 3) If further evaluation is necessary due to the suspicion of a developmental disability or serious mental illness, the developmental disability or serious mental illness must be determined by a qualified DHS-DDD ISC agent or DHS-DMH preadmission screening (PAS) agent. The presence of a developmental disability does not automatically preclude admission to the SLP unless there is the need of continuous active treatment for which the individual should be considered for other DHS-DDD services not available through the SLP. The presence of a serious mental illness does not automatically preclude admission to the SLP unless the psychiatric symptoms, behavioral risk, and major treatment adherence/engagement problem persist at a sufficiently serious level that exceeds the service capabilities of the SLP provider. The evaluation and determination of whether the needs are within the SLP provider capability or beyond the SLP provider capacity is determined by the DHS-DDD ISC or DHS-DMH PAS agent. Be without a primary or secondary diagnosis of developmental disability or serious and persistent mental illness. The developmental disability or mental illness must be determined by a qualified Department

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~~of Human Services screening agent~~; and

- 4) Have name checked against the United States Department of Justice Dru Sjodin National Offender Public Website at [www.nsopr.gov](http://www.nsopr.gov), the Illinois Sex Offender Registration website at [www.isp.state.il.us](http://www.isp.state.il.us) and the Illinois Department of Corrections registered sex offender database at [www.idoc.state.il.us](http://www.idoc.state.il.us). Refer to Section 146.215 for facility requirements if a person whose name appears on either registry is admitted to an SLP setting~~SLF~~.
- b) The SLP provider's assessment to determine if a potential resident's needs can be met by the SLP provider shall not occur until after the DON, or successor tool, assessment and other required PAS have been completed and determinations provided to the SLP provider.
- cb) Private pay residents seeking to convert to Medicaid while residing in an SLP setting~~SLF~~ shall be screened by the Department using the DON or successor tool, prior to the point of conversion and must be found to be in need of nursing facility level of care before Medicaid payment may be authorized.
- de) Each prospective resident shall have a tuberculin skin test in accordance with the Control of Tuberculosis Code (77 Ill. Adm. Code 696).
- ed) A Medicaid resident of the SLP setting~~SLF~~ shall not participate in any other federal Home and Community-Based Waiver Program.

(Source: Amended at 44 Ill. Reg. 2331, effective January 15, 2020)

**Section 146.235 Staffing**

- a) The SLP setting~~SLF~~ shall have a manager or a qualified designee present at the SLP~~SLF~~ during normal business hours plus whenever necessary to ensure attention to the management and administration of the resident contracts. Staff shall have access to the manager or the manager's designee at all times. The manager shall designate a qualified individual capable of acting in an emergency during his or her absence from the SLP setting~~SLF~~.
- b) The manager shall have at least five years~~years~~ experience in providing health care services to adults with physical disabilities or the elderly population either in

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an assisted living program, inpatient hospital, long term care setting, adult day care or in a Department approved health related field. The manager shall also have at least two years of management experience.

- c) The SLP setting~~SLF~~ shall have licensed and certified staff sufficient in number to meet the needs of the population being served.
- d) Licensed nurses or certified nursing assistants on duty in the SLP setting~~at the SLF~~ shall not be utilized in an adjoining or other part of the building not certified in the SLP setting~~as the SLF~~. This includes, but is not limited to, a nursing facility, assisted living facility, and independent living facility.
- e) Staff Training. All staff training materials shall be available for review by the Department. If required by the Department, the SLP setting~~SLF~~ shall make changes in the training materials.
  - 1) The SLP setting~~SLF~~ shall provide staff and subcontractors who provide direct care with:
    - A) training that takes place no later than 30 days after beginning employment and semi-annual training in areas related to their employment;
    - B) training that covers resident rights; infection control; crisis intervention; prevention and notification of abuse, neglect and financial exploitation; behavioral intervention; tuberculosis identification, prevention, control and reporting; ~~and~~ encouraging independence; potential resident inquiry and admission application policy; and non-discrimination policy (these subjects shall be trained as part of staff orientation and at least annually thereafter);
    - C) documented training performed by qualified individuals in their area or areas of responsibility;
    - D) training geared toward the manner in which services are to be performed;
    - E) training that includes techniques for working with persons with physical disabilities and the elderly populations; and

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- F) in the case of an SLP setting serving persons with physical disabilities, disability specific sensitivity training conducted by an outside entity familiar with working with persons with disabilities. The training shall occur for all staff initially prior to certification, at staff orientation for new staff, and at least annually thereafter.
- 2) In the case of subcontractors, training by the SLP provider is not required if the SLP provider can document that similar training is being provided through the subcontractor's employer.
- f) The SLP provider shall employ certified nursing assistants (CNAs) as follows:
- 1) Qualifications:  
Must be 18 years of age or older and have successfully completed no later than 120 days after employment a nursing assistant training course or a Department of Public Health approved equivalent training and competency evaluation.
  - 2) Names of CNAs shall be checked against the Illinois Department of Public Health's Health Care Worker Registry prior to employment.
  - 3) Job responsibilities shall include, but not be limited to:
    - A) Follow and help carry out a resident's written service plan;
    - B) Provide personal care services for residents, including but not limited to bathing, eating, dressing, personal hygiene, grooming, toileting, ambulation and assistance with transfer;
    - C) Observe the resident's functioning, maintain written records of the observations and report any changes to the licensed nurse; and
    - D) Attend initial training, in-service training sessions and staff conferences.
- g) The SLP provider shall employ or contract with a dietitian. The dietitian shall comply with the following:

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- 1) The dietitian shall be licensed under the [Dietician Nutritionist](#)~~Dietetic and Nutrition Services~~ Practice Act [225 ILCS 30].
  - 2) Job responsibilities shall include, but not be limited to, consultation and training in all food service procedures such as menu planning and review, food preparation, food storage, food service, safety, sanitation and management of therapeutic diets.
  - 3) The dietitian shall come on-site at least twice per quarter for a period of not less than a cumulative total of eight hours.
- h) The [SLP provider](#)~~SLF~~ shall employ a minimum of one cook who shall have at least one year of experience in commercial food preparation.
  - i) Twenty-four hour response staff shall be at least 18 years of age and possess at least a high school diploma or a GED. Response staff shall be certified in emergency resuscitation. The staff shall respond to scheduled or unpredictable needs and emergency calls from residents.
  - j) Nurses on staff, or subcontracted, shall be licensed by the State of Illinois and shall be responsible for nursing services set forth in Section 146.230.
  - k) The [SLP provider](#)~~SLF~~ shall designate a trained staff person to be responsible for planning and directing social and recreational activities. This person shall be at least 18 years of age and possess at least a high school diploma or a GED.
  - l) The [SLP provider](#)~~SLF~~ shall ensure that all employees who have or may have contact with residents or have access to the living quarters or the financial, medical or personal records of residents undergo a criminal history background check that conforms to the Health Care Worker Background Check Act [225 ILCS 46]. No [SLP provider](#)~~SLF~~ shall knowingly hire, employ or retain any individual in a position, with duties involving contact with residents, access to resident living quarters or access to the financial, medical or personal records of residents, who has been convicted of committing or attempting to commit one or more of the offenses defined under the Health Care Worker Background Check Act unless that individual has obtained a waiver issued by the Department of Public Health. An [SLP provider](#)~~SLF~~ may conditionally employ an applicant for up to three months pending the results of the criminal history record check.

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- m) Each employee and volunteer shall have a tuberculin skin test in accordance with the Control of Tuberculosis Code (77 Ill. Adm. Code 696).

(Source: Amended at 44 Ill. Reg. 2331, effective January 15, 2020)

**Section 146.245 Assessment and Service Plan and Quarterly Evaluation**

- a) Interview: The SLP providerSLF shall conduct a standardized interview geared toward the resident's service needs at or before the time of occupancy but not before the DON, or successor tool, and other required PAS assessments are completed and determinations provided to the SLP provider.
- b) Initial Assessment: The SLP providerSLF shall complete an initial assessment and service plan within 24 hours after admission that identifies needs and potential immediate problems. Each assessment shall be completed by, or co-signed by, a licensed practical nurse or a registered professional nurse.
- c) Comprehensive Resident Assessment: The SLP providerSLF shall complete a Comprehensive Resident Assessment Instrument (RAI) within 14 days after admission, annually and upon a significant change in the resident's mental or physical status. Each RAI shall be completed by, or co-signed by, a registered professional nurse.
- d) Service Plan: Within seven days after completion of the RAI, a written service plan shall be developed by, or co-signed by, a registered professional nurse, with input from the resident and his or her designated representative. This includes coordination and inclusion of services being delivered to a resident by an outside entity. The service plan shall include a description of expected outcomes, approaches, frequency and duration of services provided and whether the services will be provided by licensed or unlicensed staff. The service plan must be individualized to address the health and behavior needs of each resident. The service plan shall document any services recommended by the SLP providerSLF that are refused by the resident. The service plan shall be reviewed and updated in conjunction with the quarterly evaluation or as dictated by changes in resident needs or preferences.
- e) Quarterly Evaluation: A quarterly evaluation of the health and behavior status of each resident using a Department designated form shall be completed by, or co-

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signed by, a registered [professional](#) nurse.

- f) Service Plan for Identified Sex Offenders: Within seven days after completion of the RAI, a written service plan shall be developed by, or co-signed by, a registered [professional](#) nurse that addresses the following:
- 1) the amount of supervision required by the individual to ensure the safety of all residents, staff and visitors; and
  - 2) determination of approaches developed in the service plan are appropriate and effective in dealing with any behaviors specific to the identified offender.
- g) Progress Notes: Progress notes shall be completed at least monthly to document decline or improvement in resident status. A progress note does not have to be completed if there is no change in resident status. Any [SLPSLF](#) staff may write progress notes.
- h) The [SLPSLF](#) manager or licensed nursing staff shall alert the resident, his or her physician and his or her designated representative when a change in a resident's mental or physical status is observed by staff. Except in life-threatening situations, [thesueh](#) reporting shall be within 24 hours after the observation. Serious or life-threatening situations should be reported to the physician and the resident's designated representative immediately. The [SLPSLF](#) staff shall be responsible for reporting only those changes that should be apparent to observers familiar with the conditions of older persons or persons with disabilities.

(Source: Amended at 44 Ill. Reg. 2331, effective January 15, 2020)

**Section 146.265 Records and Reporting Requirements**

- a) An [SLP provider](#)~~SLF~~ shall develop and maintain confidential written records regarding each resident, which shall include, but are not limited to:
- 1) The Comprehensive Resident Assessment;
  - 2) The resident contract;
  - 3) The service plan;

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- 4) The quarterly evaluation;
  - 5) Progress notes that shall be used to document decline or improvement in resident status;
  - 6) The resident satisfaction survey;
  - 7) Written documentation of the inquiry to the sex offender databases, including the result of the inquiry; and
  - 8) Documentation of a tuberculosis test administered in accordance with Section 146.220(~~de~~).
- b) An SLP provider~~SLF~~ shall develop and maintain confidential written personnel records that shall include, but are not limited to:
- 1) Job description;
  - 2) Educational preparation and work experience;
  - 3) Current licensure or certification, if applicable;
  - 4) Documentation that employee has received personnel policies and procedures;
  - 5) Documentation of on-going staff training;
  - 6) Documentation of a tuberculosis test administered in accordance with Section 146.235(m); and
  - 7) Results from the health care worker background check conducted in accordance with Section 146.235(l).
- c) An SLP provider shall develop and maintain confidential written records regarding each potential resident, which shall include, but are not limited to:
- 1) Results of the Determination of Need assessment as indicated on the Interagency Certification of Screening (HFS 2536), Screening Verification

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Form (HFS 3864), or successor form;

- 2) OBRA-1 Initial Screen;
  - 3) Standardized interview;
  - 4) Specialized mental health evaluation, if indicated;
  - 5) Application for admission to the SLP setting;
  - 6) Documentation that supports the SLP provider's ability to meet the resident's needs.
- de) Medication Error Report: The SLP provider~~SLF~~ shall record, and retain in a facility record, all medication errors identified and reported by staff. Errors shall be recorded on a Department designated form. Any medication error resulting in a hospitalization shall be reported to the resident's physician and to the Department within 24 hours after discovery.
- ed) Incident Report: Pursuant to Sections 146.295 and 146.305, the SLP~~SLF~~ shall notify the Department of suspected abuse, neglect or financial exploitation that results in contact with local law enforcement.
- fe) The SLP provider~~SLF~~ shall generate and submit to the Department the following reports in a format and medium designated by the Department and with the frequencies as specified:
- 1) Resident Identification Report, which shall be due monthly. The report shall be in two parts, one for Medicaid-eligible residents and one for private pay residents. Each part shall contain an alphabetical list of residents residing in the SLP setting~~SLF~~, including their names, case identification and recipient numbers for Medicaid-eligible residents or Department designated identifying numbers for private pay residents, dates of admission and dates of discharge.
  - 2) Cost Reports, which shall be submitted at any time upon request by the Department or when a significant change occurs in the SLP provider's~~SLF's~~ financial status/solvency, and annually not later than 90 days after the end of the SLP provider's~~SLF's~~ fiscal year. One extension

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up to 30 days shall be granted for circumstances that will not allow a cost report to be properly completed before the due date of the report. The written extension must be submitted to the Department's Bureau of Long Term Care prior to the original due date. Each enrolled [SLP provider](#) shall file an annual report with the Department in accordance with the following requirements:

- A) All schedules contained in the cost report must be completed with the exception of those schedules specified in the cost report instructions as optional.
  - B) The cost report is not complete until all required schedules are filed and all inquiries to the provider are satisfactorily resolved.
  - C) If the cost report is prepared by other than the [SLP setting's facility's](#) manager or officer, the certification must be signed by the preparer as well as the officer or manager. The preparer's declaration is based upon all information of which the preparer has any knowledge.
  - D) All financial data contained in the cost report must be accounted for on the accrual basis of accounting.
  - E) Copies of all independent audits and reviews performed on the [SLP setting](#) by certified public accounting firms shall be provided to the Department with the cost report.
- 3) **Cost Report for Change of Ownership.** The new owner or lessee must file a cost report nine months after acquisition (covering the first six months of operation). A change of ownership is dated from the closing of the sale or from the date of the oldest lease agreement between the present incumbents of a lease. The facility must also file a cost report within 90 days after the close of its first complete fiscal year. A change of corporate stock ownership does not constitute a change of ownership.
  - 4) **Cost Report for New Facility.** A full cost report must be filed within nine months after opening the facility (covering at least the first six months of operation). The facility must also file a cost report within 90 days after the close of its first complete fiscal year.

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- gf) No funds shall be expended by the Department for the maintenance of any resident in an SLP setting~~SLF~~ that has failed to file an annual cost report.
- hg) The SLP provider~~An SLF~~ shall retain all records in accordance with provisions of 89 Ill. Adm. Code 140.28. The SLP provider~~SLF~~ shall provide the Department or its designee with access to financial and other records that pertain to covered services. The SLP provider~~SLF~~ shall keep fiscal records in accordance with acceptable accounting procedures.

(Source: Amended at 44 Ill. Reg. 2331, effective January 15, 2020)