



STATE OF ILLINOIS  
**OFFICE OF THE  
AUDITOR GENERAL**

William G. Holland, Auditor General

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**SUMMARY REPORT DIGEST**

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**REVIEW OF THE DEPARTMENT OF HEALTHCARE AND FAMILY  
SERVICES' SMART ACT IMPLEMENTATION REPORT**

**REVIEW**

**Release Date: April 25, 2013**

**SYNOPSIS**

The Save Medicaid Access and Resources Together (SMART) Act required the Department of Healthcare and Family Services (HFS) to file a report with the Auditor General, the Governor, and leaders of the General Assembly by August 1, 2012 that listed any necessary amendments to the Illinois Title XIX State plan, federal waiver request, or State administrative rules necessary to implement the SMART Act. HFS was further required to provide evidence to the Auditor General by March 1, 2013 documenting the actions HFS had taken to implement the SMART Act provisions that were delineated in its August 1, 2012 Report. Finally, the Auditor General was required to review the evidence submitted by HFS and issue a report by May 1, 2013 which determined whether HFS had undertaken the actions contained in its August 1, 2012 report.

HFS submitted its SMART Act Implementation Report to the Office of the Auditor General (OAG) on August 1, 2012. The August 1 report identified 58 provisions of the SMART Act for which a State administrative rule change or federal action may be needed for implementation: 54 pertained to HFS and the remaining 4 pertained to other State agencies.

On March 1, 2013, HFS submitted to the Auditor General an updated SMART Act Implementation Report. The Report cited specific emergency and proposed rules, as well as proposed amendments to the State plan, filed by HFS to implement provisions of the SMART Act. The OAG reviewed the evidence submitted by HFS and followed up with HFS with questions concerning the evidence provided. While our review identified a few inaccuracies in the two Implementation Reports, the OAG concluded that the evidence submitted by HFS generally supported the actions reported by the Department.

This report does not constitute an audit as that term is defined in generally accepted government auditing standards.



## CONCLUSIONS

### BACKGROUND

**The SMART Act required the Department of Healthcare and Family Services to file a report with the Auditor General, the Governor, and leaders of the General Assembly by August 1, 2012 that listed any necessary amendments to the Illinois Title XIX State plan, federal waiver request, or State administrative rules required to implement the SMART Act.**

On May 24, 2012, the General Assembly passed Senate Bill 2840 – the Save Medicaid Access and Resources Together (SMART) Act. On June 14, 2012, the Governor signed it into law as Public Act 97-0689. The purpose of the SMART Act was to save approximately \$1.6 billion in Medicaid spending through the enactment of spending reductions, utilization controls, and provider rate cuts.

The SMART Act required the Department of Healthcare and Family Services (HFS) to file a report with the Auditor General, the Governor, and leaders of the General Assembly by August 1, 2012 that listed any necessary amendments to the Illinois Title XIX State plan, federal waiver request, or State administrative rules required to implement the SMART Act.

The Act further required HFS to provide evidence to the Auditor General by March 1, 2013 that it has undertaken the required actions listed in its August 1, 2012 report. Finally, the Act required the Auditor General to submit a report to the Governor and legislative leaders by May 1, 2013 as to whether the Department took the actions listed in its August 1, 2012 report. (pages 1-3)

### HFS’ AUGUST 1, 2012 SMART ACT IMPLEMENTATION REPORT

**HFS submitted its SMART Act Implementation Report to the Office of the Auditor General on August 1, 2012.**

HFS submitted its SMART Act Implementation Report to the Office of the Auditor General (OAG) on August 1, 2012. The August 1 Report identified provisions of the SMART Act that HFS determined required a State administrative rule or federal action for implementation. The August 1 Implementation Report listed 58 provisions in the SMART Act where action may need to be taken: 54 pertained to HFS and the remaining 4 required action by other State agencies, including the following Departments: Aging, Employment Security, Human Services, and Public Health.

Of the 54 provisions pertaining to HFS, HFS reported that 52 required a State administrative rule change to implement. In addition, HFS reported that 24 required federal action to implement (i.e., a State plan amendment or federal waiver). For 8 other provisions, HFS reported that it had not yet determined whether federal action was required. (page 3)

**OAG REVIEW OF HFS’ MARCH 1, 2013 SUBMISSION**

**On March 1, 2013, HFS submitted a revised SMART Act Implementation Report to the Auditor General summarizing the actions taken by HFS to implement the 54 SMART Act provisions for which HFS determined State rulemaking and/or federal action may need to be taken by HFS.**

On March 1, 2013, HFS submitted a revised SMART Act Implementation Report to the Auditor General summarizing the actions taken by HFS to implement the 54 SMART Act provisions for which HFS determined State rulemaking and/or federal action may need to be taken by HFS. In addition to the Implementation Report, HFS provided links to administrative rulemakings in the Illinois Register, as well as State plan amendments submitted to the federal Centers for Medicare & Medicaid Services (CMS) and other correspondence to document the actions referenced in the Report.

To determine “whether the Department has undertaken the required actions listed” in its August 1, 2012 Report, the OAG: 1) examined the March 1, 2013 Implementation Report to determine whether HFS made significant changes in the “required actions” from those that were delineated in HFS’ August 1, 2012 Implementation Report; 2) verified that the administrative rules and State plan amendments (SPA) referenced in HFS’ March 1 documentation were actually filed; and 3) reviewed the specific evidence cited (i.e., administrative rules and submissions to the federal government) to determine whether they were related to the SMART Act provision to which they were referenced. When questions from our review arose, the OAG followed up with HFS for clarification. The OAG review focused on the 54 provisions for which HFS had responsibility. (pages 3-4)

**Items Requiring Administrative Rules**

**Our review found that, in most instances, HFS filed rules to address provisions identified by HFS in its August 2012 Implementation Report as requiring an administrative rule change to implement.**

Our review found that, in most instances, HFS filed rules to address provisions identified by HFS in its August 2012 Implementation Report as requiring an administrative rule change to implement. In its August 2012 Report, HFS reported that 52 of the 54 SMART Act provisions required a State administrative rule change by HFS.

In reviewing the evidence submitted by HFS on March 1, 2013, HFS filed rules for 50 of these 52 SMART Act provisions. Also, there was one SMART Act provision that in its August Report HFS said no rule was necessary; however, in the March 2013 Report, HFS stated a rule was now necessary. HFS provided explanations for the differences between the August and March Reports. Finally, there was a SMART Act provision that HFS noted that both the August and March Reports incorrectly stated that no administrative rule was required, when, in fact, rules had been filed.

The OAG reviewed the administrative rules cited by HFS to determine that they were filed and that they were related to the

SMART Act provision to which it was referenced. The emergency and proposed rules cited by HFS were related to the SMART Act provision to which they were referenced. (pages 4-5)

### Items Requiring Federal Action

**Regarding whether federal action was necessary to implement the 54 SMART Act provisions, HFS’ August 2012 Report noted that: a State plan amendment (SPA) was required for 24 of the provisions; a SPA was not required for 22 provisions; and for the remaining 8 provisions, the necessity of a SPA was “to be determined”.**

Regarding whether federal action was necessary to implement the 54 SMART Act provisions, HFS’ August 2012 Report noted that: a State plan amendment (SPA) was required for 24 of the provisions; a SPA was not required for 22 provisions; and for the remaining 8 provisions, the necessity of a SPA was “to be determined”.

For 39 of the 54 items, HFS’ determination made in the August 2012 Implementation Report as to whether or not federal action was necessary to implement the SMART Act was consistent with what was reported in the March 2013 Report. Of the 15 differences, 8 were attributable to items in the August 2012 Report for which HFS noted that it had not yet determined whether federal action was required. For the eight “to be determined” items on the August 2012 Report, HFS’ March report identified what action, if any, had been taken.

The remaining seven differences between the August 2012 and March 2013 Reports as to whether federal action was necessary were for the following reasons:

- For three items, HFS reported on the August 2012 Report that a SPA was not necessary. However, on the March 2013 Report, HFS noted that either a SPA had been submitted to the federal government or that one was required.
- For three items, HFS reported on the August 2012 Report that a SPA was required. However, on the March 2013 Report, HFS stated that federal action was not required.
- For one item, HFS reported on the August 2012 Report that a SPA was not necessary. However, on the March Report, HFS noted it was in discussions with the federal CMS as to whether a SPA is necessary. In April 2013, HFS informed the OAG that HFS did not believe a SPA was necessary to implement this SMART Act provision.

There were three SMART Act provisions for which HFS noted on its March 1, 2013 Implementation Report that SPAs had yet to be filed. For two of the provisions, HFS determined that no SPA was required. For the third, HFS noted that a SPA was filed on March 29, 2013.

On the March 1, 2013 Implementation Report, HFS reported that a federal waiver amendment had been approved for one of the SMART Act provisions. However, in responding to OAG follow-up questions in April 2013, HFS noted that a correction needed to be made to their March 1, 2013 Report. The waivers cited by HFS in the March 2013 Report were related to Public Act 96-1501, not the SMART Act. However, HFS noted that a State plan amendment was required to implement this SMART Act provision and that one had been filed.

**Most of the federal SPAs were filed in August and September 2012. As of March 1, 2013, HFS reported that only two SPAs had been approved by the federal government.**

Most of the federal SPAs were filed in August and September 2012. As of March 1, 2013, HFS reported that only two SPAs had been approved by the federal government. According to HFS officials, for other SPAs, the federal CMS has reviewed the SPA and has submitted requests for additional information to HFS concerning the changes proposed in the SPA.

The OAG reviewed the federal State plan amendments HFS cited in the March 2013 Implementation Report to determine whether they were filed and that each was related to the SMART Act provision to which it was referenced. The State plan amendments cited by HFS addressed in some manner issues related to the SMART Act provision to which they were referenced. (pages 5-8)

## SCOPE OF REVIEW

The Office of the Auditor General conducted this review of evidence submitted by the Department of Healthcare and Family Services on March 1, 2013 pursuant to the Illinois State Auditing Act (30 ILCS 5/2-20). This report does not constitute an audit as that term is defined in generally accepted government auditing standards.

**Our review of the evidence submitted by HFS in conjunction with its March 1, 2013 Report concluded that, in most instances, the evidence adequately supported the stated actions (e.g., filing of rules or State plan amendments).**

Our review of the evidence submitted by HFS in conjunction with its March 1, 2013 Report concluded that, in most instances, the evidence adequately supported the stated actions (e.g., filing of rules or State plan amendments). There were a few isolated instances where incorrect cites to administrative rules were provided or where the Reports contained other errors. HFS clarified the administrative rule cites and submitted documentation supporting the corrected required SMART Act actions.

We did not make a determination as to whether there were additional provisions in the SMART Act that required changes to the State plan or administrative rules that were not identified by the Department. Also, our review was limited to the rules or SPAs submitted by HFS. We did not conduct tests to determine whether HFS was actually implementing the actions delineated in the proposed rules or State plan amendments.

HFS was provided a draft of this report for their review.  
(pages 8-9)



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WILLIAM G. HOLLAND  
Auditor General

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This Review was conducted by OAG staff.