**Section 590.355 Penalty for Failure to Fulfill Service Obligation**

a) If the recipient fails to fulfill the service obligation to provide service at the medical facility in a designated shortage area in Illinois for the duration and hours specified in the agreement, the recipient shall be in breach of the agreement.

b) Breach shall include, but not be limited to, the following:

1) Failure to practice at the location specified in the agreement;

2) Resignation from the recipient's current medical facility without prior written approval from the Department or termination by the medical facility for cause;

3) Material misstatement in furnishing any information to the Department;

4) Any misrepresentation for the purpose of obtaining or keeping educational loan repayment assistance; or

5) Failure to promptly retire educational loan balances by the amount of educational loan repayment assistance received during the agreement term.

c) If the Department believes that any breach has occurred, the Department shall commence administrative recovery pursuant to the Illinois Grant Funds Recovery Act.

d) Agreements made under this Part are subject to the Illinois Grant Funds Recovery Act. If a provision of this Part conflicts with a provision of the Illinois Grant Funds Recovery Act, the provision of the Illinois Grant Funds Recovery Act will control.

e) The Department may request and the recipient shall provide access to documents as part of the Department's investigation, audit, inquiry or review into the use of educational loan repayment funds.

f) Every recipient shall keep complete and accurate records of all educational loan repayment funds received and utilized. A recipient's failure to maintain accurate records shall create a presumption in favor of recovery by the Department.

g) Whenever the Department believes that educational loan repayment funds are subject to recovery, the Department shall provide the recipient the opportunity for at least one informal hearing to determine the facts and issues and to resolve any conflicts as amicably as possible before taking any formal recovery actions. (Section 7 of the Illinois Grant Funds Recovery Act)

h) The offer of an informal hearing will be in writing and will provide the recipient with no fewer than 10 calendar days in which to request an informal hearing. A recipient’s failure to deliver a timely request for an informal hearing shall constitute the recipient’s waiver of the informal hearing. During any informal hearing, the recipient may be represented by a licensed attorney.

i) If, after an informal hearing or, if no timely request for an informal hearing is received, the Department determines that any educational loan repayment funds are to be recovered, the Department will provide the recipient with formal written notice of its intent to recover educational loan repayment funds. The notice will identify the funds, the amount to be recovered, and the specific facts that permit recovery, and include instructions for requesting a formal hearing.

j) A recipient shall have 35 days from the receipt of the notice required in subsection (i) to request a hearing to show why recovery is not proper.

k) Once a formal hearing is requested, the Department's Administrative Hearings administrative law judge (ALJ) will schedule an initial prehearing conference within 30 days of the request for hearing. During the prehearing conference, the ALJ and parties will discuss and determine a hearing date and any other prehearing matters (see 77 Ill. Adm. Code 100.11). At the hearing, the recipient may present evidence and witnesses to show why recovery should not occur. After the conclusion of the hearing, if recovery is warranted, the Department will issue a written final recovery order and send a copy of the final recovery order to the recipient by Certified U.S. Mail.

l) A recipient may seek judicial review in the circuit court of any Department final recovery order, pursuant to the Administrative Review Law.

m) The Department will not take any action of recovery until at least 35 days after a final recovery order has been issued.

n) If a recipient does not timely request a hearing, the Department may proceed with recovery of the educational loan repayment funds identified in the notice issued pursuant to this Section, at any time after the expiration of the 35-day request period.

o) Any notice or mailing required or permitted by this Section shall be deemed received five days after the notice or mailing is deposited in the U.S. mail, with the recipient’s current address and with sufficient U.S. postage affixed, or the date of actual delivery, whichever is sooner.

p) During any formal hearing, the recipient may be represented by a licensed attorney.

q) The amounts paid to the Department shall be deposited into the Community Health Center Care Fund.

(Source: Amended at 47 Ill. Reg. 6528, effective April 27, 2023)