



Sen. Ira I. Silverstein

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LRB097 09341 KTG 54147 a

1 AMENDMENT TO HOUSE BILL 1489

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1489 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 12-4.25 as follows:

6 (305 ILCS 5/12-4.25) (from Ch. 23, par. 12-4.25)

7 Sec. 12-4.25. Medical assistance program; vendor  
8 participation.

9 (A) The Illinois Department may deny, suspend or terminate  
10 the eligibility of any person, firm, corporation, association,  
11 agency, institution or other legal entity to participate as a  
12 vendor of goods or services to recipients under the medical  
13 assistance program under Article V, if after reasonable notice  
14 and opportunity for a hearing the Illinois Department finds:

15 (a) Such vendor is not complying with the Department's  
16 policy or rules and regulations, or with the terms and

1 conditions prescribed by the Illinois Department in its  
2 vendor agreement, which document shall be developed by the  
3 Department as a result of negotiations with each vendor  
4 category, including physicians, hospitals, long term care  
5 facilities, pharmacists, optometrists, podiatrists and  
6 dentists setting forth the terms and conditions applicable  
7 to the participation of each vendor group in the program;  
8 or

9 (b) Such vendor has failed to keep or make available  
10 for inspection, audit or copying, after receiving a written  
11 request from the Illinois Department, such records  
12 regarding payments claimed for providing services. This  
13 section does not require vendors to make available patient  
14 records of patients for whom services are not reimbursed  
15 under this Code; or

16 (c) Such vendor has failed to furnish any information  
17 requested by the Department regarding payments for  
18 providing goods or services; or

19 (d) Such vendor has knowingly made, or caused to be  
20 made, any false statement or representation of a material  
21 fact in connection with the administration of the medical  
22 assistance program; or

23 (e) Such vendor has furnished goods or services to a  
24 recipient which are (1) in excess of his or her needs, (2)  
25 harmful to the recipient, or (3) of grossly inferior  
26 quality, all of such determinations to be based upon

1 competent medical judgment and evaluations; or

2 (f) The vendor; a person with management  
3 responsibility for a vendor; an officer or person owning,  
4 either directly or indirectly, 5% or more of the shares of  
5 stock or other evidences of ownership in a corporate  
6 vendor; an owner of a sole proprietorship which is a  
7 vendor; or a partner in a partnership which is a vendor,  
8 either:

9 (1) was previously terminated from participation  
10 in the Illinois medical assistance program, or was  
11 terminated from participation in a medical assistance  
12 program in another state that is of the same kind as  
13 the program of medical assistance provided under  
14 Article V of this Code; or

15 (2) was a person with management responsibility at  
16 the time such vendor was ~~for a vendor~~ previously  
17 terminated from participation in the Illinois medical  
18 assistance program and was found culpable by the  
19 Illinois Department for the conduct which was the basis  
20 for the vendor's termination, or terminated from  
21 participation in a medical assistance program in  
22 another state that is of the same kind as the program  
23 of medical assistance provided under Article V of this  
24 Code, during the time of conduct which was the basis  
25 for that vendor's termination; or

26 (3) was an officer, or person owning, either

1 directly or indirectly, 5% or more of the shares of  
2 stock or other evidences of ownership in a corporate  
3 vendor at the time such vendor was previously  
4 terminated from participation in the Illinois medical  
5 assistance program and was found culpable by the  
6 Illinois Department for the conduct which was the basis  
7 for the vendor's termination, or terminated from  
8 participation in a medical assistance program in  
9 another state that is of the same kind as the program  
10 of medical assistance provided under Article V of this  
11 Code, during the time of conduct which was the basis  
12 for that vendor's termination; or

13 (4) was an owner of a sole proprietorship or  
14 partner of a partnership at the time such vendor was  
15 previously terminated from participation in the  
16 Illinois medical assistance program and was found  
17 culpable by the Illinois Department for the conduct  
18 which was the basis for the vendor's termination, or  
19 terminated from participation in a medical assistance  
20 program in another state that is of the same kind as  
21 the program of medical assistance provided under  
22 Article V of this Code, during the time of conduct  
23 which was the basis for that vendor's termination; or

24 (g) The vendor; a person with management  
25 responsibility for a vendor; an officer or person owning,  
26 either directly or indirectly, 5% or more of the shares of

1 stock or other evidences of ownership in a corporate  
2 vendor; an owner of a sole proprietorship which is a  
3 vendor; or a partner in a partnership which is a vendor,  
4 either:

5 (1) has engaged in practices prohibited by  
6 applicable federal or State law or regulation relating  
7 to the medical assistance program; or

8 (2) was a person with management responsibility  
9 for a vendor at the time that such vendor engaged in  
10 practices prohibited by applicable federal or State  
11 law or regulation relating to the medical assistance  
12 program and was found culpable by the Illinois  
13 Department for such practices; or

14 (3) was an officer, or person owning, either  
15 directly or indirectly, 5% or more of the shares of  
16 stock or other evidences of ownership in a vendor at  
17 the time such vendor engaged in practices prohibited by  
18 applicable federal or State law or regulation relating  
19 to the medical assistance program and was found  
20 culpable by the Illinois Department for such  
21 practices; or

22 (4) was an owner of a sole proprietorship or  
23 partner of a partnership which was a vendor at the time  
24 such vendor engaged in practices prohibited by  
25 applicable federal or State law or regulation relating  
26 to the medical assistance program and was found

1           culpable by the Illinois Department for such  
2           practices; or

3           (h) The direct or indirect ownership of the vendor  
4           (including the ownership of a vendor that is a sole  
5           proprietorship, a partner's interest in a vendor that is a  
6           partnership, or ownership of 5% or more of the shares of  
7           stock or other evidences of ownership in a corporate  
8           vendor) has been transferred by an individual who is  
9           terminated or barred from participating as a vendor to the  
10          individual's spouse, child, brother, sister, parent,  
11          grandparent, grandchild, uncle, aunt, niece, nephew,  
12          cousin, or relative by marriage.

13          (A-2) Notwithstanding the provisions of paragraph (A), and  
14          in addition thereto, any person with management responsibility  
15          for a vendor; an officer or person owning, either directly or  
16          indirectly, 5% or more of the shares of stock or other  
17          evidences of ownership in a corporate vendor; an owner of a  
18          sole proprietorship which is a vendor; or a partner in a  
19          partnership which is a vendor who is found culpable in the  
20          vendor's act of willfully failing to keep and maintain, or  
21          willfully failing to produce for inspection, audit, or copying,  
22          books and records, or willfully failing to furnish any  
23          information requested by the Illinois Department regarding  
24          payments for providing goods or services, is guilty of a Class  
25          A misdemeanor. A second or subsequent violation of this Section  
26          shall be punishable as a Class A felony.

1       (A-3) Any person with management responsibility for a  
2 vendor; an officer or person owning, either directly or  
3 indirectly, 5% or more of the shares of stock or other  
4 evidences of ownership in a corporate vendor; an owner of a  
5 sole proprietorship which is a vendor; or a partner in a  
6 partnership which is a vendor who is found culpable in the  
7 vendor's act of willfully filing or willfully causing to be  
8 filed any false statement or representation of a material fact  
9 in connection with the administration of the medical assistance  
10 program, is guilty of a Class A misdemeanor.

11       (A-5) The Illinois Department may deny, suspend, or  
12 terminate the eligibility of any person, firm, corporation,  
13 association, agency, institution, or other legal entity to  
14 participate as a vendor of goods or services to recipients  
15 under the medical assistance program under Article V if, after  
16 reasonable notice and opportunity for a hearing, the Illinois  
17 Department finds that the vendor; a person with management  
18 responsibility for a vendor; an officer or person owning,  
19 either directly or indirectly, 5% or more of the shares of  
20 stock or other evidences of ownership in a corporate vendor; an  
21 owner of a sole proprietorship that is a vendor; or a partner  
22 in a partnership that is a vendor has been convicted of a  
23 felony offense based on fraud or willful misrepresentation  
24 related to any of the following:

25           (1) The medical assistance program under Article V of  
26       this Code.

1           (2) A medical assistance program in another state that  
2           is of the same kind as the program of medical assistance  
3           provided under Article V of this Code.

4           (3) The Medicare program under Title XVIII of the  
5           Social Security Act.

6           (4) The provision of health care services.

7           (A-10) The Illinois Department may deny, suspend, or  
8           terminate the eligibility of any person, firm, corporation,  
9           association, agency, institution, or other legal entity to  
10          participate as a vendor of goods or services to recipients  
11          under the medical assistance program under Article V if, after  
12          reasonable notice and opportunity for a hearing, the Illinois  
13          Department finds that (i) the vendor, (ii) a person with  
14          management responsibility for a vendor, (iii) an officer or  
15          person owning, either directly or indirectly, 5% or more of the  
16          shares of stock or other evidences of ownership in a corporate  
17          vendor, (iv) an owner of a sole proprietorship that is a  
18          vendor, or (v) a partner in a partnership that is a vendor has  
19          been convicted of a felony offense related to any of the  
20          following:

21           (1) Murder.

22           (2) A Class X felony under the Criminal Code of 1961.

23          (B) The Illinois Department shall deny, suspend or  
24          terminate the eligibility of any person, firm, corporation,  
25          association, agency, institution or other legal entity to  
26          participate as a vendor of goods or services to recipients



1 under the medical assistance program under Article V:

2 (1) if such vendor is not properly licensed;

3 (2) within 30 days of the date when such vendor's  
4 professional license, certification or other authorization  
5 has been refused renewal or has been revoked, suspended or  
6 otherwise terminated; or

7 (3) if such vendor has been convicted of a violation of  
8 this Code, as provided in Article VIII A.

9 (C) Upon termination of a vendor of goods or services from  
10 participation in the medical assistance program authorized by  
11 this Article, a person with management responsibility for such  
12 vendor during the time of any conduct which served as the basis  
13 for that vendor's termination and who was found culpable of  
14 such conduct by the Illinois Department may be ~~is~~ barred from  
15 participation in the medical assistance program.

16 Upon termination of a corporate vendor, the officers and  
17 persons owning, directly or indirectly, 5% or more of the  
18 shares of stock or other evidences of ownership in the vendor  
19 during the time of any conduct which served as the basis for  
20 that vendor's termination and who were found culpable of such  
21 conduct by the Illinois Department may be ~~are~~ barred from  
22 participation in the medical assistance program. A person who  
23 owns, directly or indirectly, 5% or more of the shares of stock  
24 or other evidences of ownership in a terminated corporate  
25 vendor may not transfer his or her ownership interest in that  
26 vendor to his or her spouse, child, brother, sister, parent,

1 grandparent, grandchild, uncle, aunt, niece, nephew, cousin,  
2 or relative by marriage.

3 Upon termination of a sole proprietorship or partnership,  
4 the owner or partners during the time of any conduct which  
5 served as the basis for that vendor's termination and who were  
6 found culpable of such conduct by the Illinois Department may  
7 be ~~are~~ barred from participation in the medical assistance  
8 program. The owner of a terminated vendor that is a sole  
9 proprietorship, and a partner in a terminated vendor that is a  
10 partnership, may not transfer his or her ownership or  
11 partnership interest in that vendor to his or her spouse,  
12 child, brother, sister, parent, grandparent, grandchild,  
13 uncle, aunt, niece, nephew, cousin, or relative by marriage.

14 Rules adopted by the Illinois Department to implement these  
15 provisions shall specifically include a definition of the term  
16 "management responsibility" as used in this Section. Such  
17 definition shall include, but not be limited to, typical job  
18 titles, and duties and descriptions which will be considered as  
19 within the definition of individuals with management  
20 responsibility for a provider. Prior to barring any individuals  
21 from participation in the medical assistance program pursuant  
22 to this Section, such individuals shall have a right to a  
23 hearing on the individual's culpability for the conduct which  
24 served as the basis for the vendor's termination. In  
25 determining culpability, the Department shall consider the  
26 nature, circumstances, extent, and gravity of the conduct which

1 served as the basis for the vendor's termination and the degree  
2 of the individual's participation in such conduct, including  
3 whether there was an intent to defraud the program or other  
4 criminal conduct, and the individual's history of prior  
5 offenses, its effect on the individual's ability to continue  
6 business, and such other matters as justice may require. Errors  
7 in record keeping and billing alone shall not be a sufficient  
8 basis to bar an individual from the medical assistance program.

9 (D) If a vendor has been suspended from the medical  
10 assistance program under Article V of the Code, the Director  
11 may require that such vendor correct any deficiencies which  
12 served as the basis for the suspension. The Director shall  
13 specify in the suspension order a specific period of time,  
14 which shall not exceed one year from the date of the order,  
15 during which a suspended vendor shall not be eligible to  
16 participate. At the conclusion of the period of suspension the  
17 Director shall reinstate such vendor, unless he finds that such  
18 vendor has not corrected deficiencies upon which the suspension  
19 was based.

20 If a vendor has been terminated from the medical assistance  
21 program under Article V, such vendor shall be barred from  
22 participation for at least one year, except that if a vendor  
23 has been terminated based on a conviction of a violation of  
24 Article VIIIA or a conviction of a felony based on fraud or a  
25 willful misrepresentation related to (i) the medical  
26 assistance program under Article V, (ii) a medical assistance

1 program in another state that is of the kind provided under  
2 Article V, (iii) the Medicare program under Title XVIII of the  
3 Social Security Act, or (iv) the provision of health care  
4 services, then the vendor shall be barred from participation  
5 for 5 years or for the length of the vendor's sentence for that  
6 conviction, whichever is longer. At the end of one year a  
7 vendor who has been terminated may apply for reinstatement to  
8 the program. Upon proper application to be reinstated such  
9 vendor may be deemed eligible by the Director providing that  
10 such vendor meets the requirements for eligibility under this  
11 Code. If such vendor is deemed not eligible for reinstatement,  
12 he shall be barred from again applying for reinstatement for  
13 one year from the date his application for reinstatement is  
14 denied. An individual who is a person with management  
15 responsibility for a vendor; an officer or person owning,  
16 either directly or indirectly, 5% or more of the shares of  
17 stock or other evidences of ownership in a corporate vendor; an  
18 owner of a sole proprietorship that is a vendor; or a partner  
19 in a partnership that is a vendor, who was previously  
20 terminated prior to the effective date of this amendatory Act  
21 of the 97th General Assembly, may apply for reinstatement to  
22 the program and the Department shall hold a hearing to  
23 determine the individual's culpability in the conduct that  
24 resulted in the vendor's termination. If the Director  
25 determines that the individual was not culpable for the conduct  
26 which served as the basis for the vendor's termination, the

1 individual shall be reinstated to the program.

2 A vendor whose termination from participation in the  
3 Illinois medical assistance program under Article V was based  
4 solely on an action by a governmental entity other than the  
5 Illinois Department may, upon reinstatement by that  
6 governmental entity or upon reversal of the termination, apply  
7 for rescission of the termination from participation in the  
8 Illinois medical assistance program. Upon proper application  
9 for rescission, the vendor may be deemed eligible by the  
10 Director if the vendor meets the requirements for eligibility  
11 under this Code.

12 If a vendor has been terminated and reinstated to the  
13 medical assistance program under Article V and the vendor is  
14 terminated a second or subsequent time from the medical  
15 assistance program, the vendor shall be barred from  
16 participation for at least 2 years, except that if a vendor has  
17 been terminated a second time based on a conviction of a  
18 violation of Article VIIIA or a conviction of a felony based on  
19 fraud or a willful misrepresentation related to (i) the medical  
20 assistance program under Article V, (ii) a medical assistance  
21 program in another state that is of the kind provided under  
22 Article V, (iii) the Medicare program under Title XVIII of the  
23 Social Security Act, or (iv) the provision of health care  
24 services, then the vendor shall be barred from participation  
25 for life. At the end of 2 years, a vendor who has been  
26 terminated may apply for reinstatement to the program. Upon

1 application to be reinstated, the vendor may be deemed eligible  
2 if the vendor meets the requirements for eligibility under this  
3 Code. If the vendor is deemed not eligible for reinstatement,  
4 the vendor shall be barred from again applying for  
5 reinstatement for 2 years from the date the vendor's  
6 application for reinstatement is denied.

7 (E) The Illinois Department may recover money improperly or  
8 erroneously paid, or overpayments, either by setoff, crediting  
9 against future billings or by requiring direct repayment to the  
10 Illinois Department.

11 If the Illinois Department establishes through an  
12 administrative hearing that the overpayments resulted from the  
13 vendor or alternate payee willfully making, or causing to be  
14 made, a false statement or misrepresentation of a material fact  
15 in connection with billings and payments under the medical  
16 assistance program under Article V, the Department may recover  
17 interest on the amount of the overpayments at the rate of 5%  
18 per annum. For purposes of this paragraph, "willfully" means  
19 that a person makes a statement or representation with actual  
20 knowledge that it was false, or makes a statement or  
21 representation with knowledge of facts or information that  
22 would cause one to be aware that the statement or  
23 representation was false when made.

24 (F) The Illinois Department may withhold payments to any  
25 vendor or alternate payee during the pendency of any proceeding  
26 under this Section. The Illinois Department shall state by rule

1 with as much specificity as practicable the conditions under  
2 which payments will not be withheld during the pendency of any  
3 proceeding under this Section and shall provide the vendor with  
4 a detail of the payments being withheld. Payments may be denied  
5 for bills submitted with service dates occurring during the  
6 pendency of a proceeding where the final administrative  
7 decision is to terminate eligibility to participate in the  
8 medical assistance program. If the final administrative  
9 decision is to allow the vendor to continue to participate in  
10 the medical assistance program, the Department shall release to  
11 the vendor or the alternate payee all withheld payments,  
12 including payments for bills submitted with service dates  
13 occurring during the pendency of the proceeding. The Illinois  
14 Department shall state by rule with as much specificity as  
15 practicable the conditions under which payments will not be  
16 denied for such bills. The Illinois Department shall state by  
17 rule a process and criteria by which a vendor or alternate  
18 payee may request full or partial release of payments withheld  
19 under this subsection. The Department must complete a  
20 proceeding under this Section in a timely manner.

21 (F-5) The Illinois Department may temporarily withhold  
22 payments to a vendor or alternate payee if any of the following  
23 individuals have been indicted or otherwise charged under a law  
24 of the United States or this or any other state with a felony  
25 offense that is based on alleged fraud or willful  
26 misrepresentation on the part of the individual related to (i)

1 the medical assistance program under Article V of this Code,  
2 (ii) a medical assistance program provided in another state  
3 which is of the kind provided under Article V of this Code,  
4 (iii) the Medicare program under Title XVIII of the Social  
5 Security Act, or (iv) the provision of health care services:

6 (1) If the vendor or alternate payee is a corporation:  
7 an officer of the corporation or an individual who owns,  
8 either directly or indirectly, 5% or more of the shares of  
9 stock or other evidence of ownership of the corporation.

10 (2) If the vendor is a sole proprietorship: the owner  
11 of the sole proprietorship.

12 (3) If the vendor or alternate payee is a partnership:  
13 a partner in the partnership.

14 (4) If the vendor or alternate payee is any other  
15 business entity authorized by law to transact business in  
16 this State: an officer of the entity or an individual who  
17 owns, either directly or indirectly, 5% or more of the  
18 evidences of ownership of the entity.

19 If the Illinois Department withholds payments to a vendor  
20 or alternate payee under this subsection, the Department shall  
21 not release those payments to the vendor or alternate payee  
22 while any criminal proceeding related to the indictment or  
23 charge is pending unless the Department determines that there  
24 is good cause to release the payments before completion of the  
25 proceeding. If the indictment or charge results in the  
26 individual's conviction, the Illinois Department shall retain



1 all withheld payments, which shall be considered forfeited to  
2 the Department. If the indictment or charge does not result in  
3 the individual's conviction, the Illinois Department shall  
4 release to the vendor or alternate payee all withheld payments.

5 (G) The provisions of the Administrative Review Law, as now  
6 or hereafter amended, and the rules adopted pursuant thereto,  
7 shall apply to and govern all proceedings for the judicial  
8 review of final administrative decisions of the Illinois  
9 Department under this Section. The term "administrative  
10 decision" is defined as in Section 3-101 of the Code of Civil  
11 Procedure.

12 (G-5) Non-emergency transportation.

13 (1) (Blank). ~~Notwithstanding any other provision in~~  
14 ~~this Section, for non emergency transportation vendors,~~  
15 ~~the Department may terminate the vendor from participation~~  
16 ~~in the medical assistance program prior to an evidentiary~~  
17 ~~hearing but after reasonable notice and opportunity to~~  
18 ~~respond as established by the Department by rule.~~

19 (2) Vendors of non-emergency medical transportation  
20 services, as defined by the Department by rule, shall  
21 submit to a fingerprint-based criminal background check on  
22 current and future information available in the State  
23 system and current information available through the  
24 Federal Bureau of Investigation's system by submitting all  
25 necessary fees and information in the form and manner  
26 prescribed by the Department of State Police. The following

1 individuals shall be subject to the check:

2 (A) In the case of a vendor that is a corporation,  
3 every shareholder who owns, directly or indirectly, 5%  
4 or more of the outstanding shares of the corporation.

5 (B) In the case of a vendor that is a partnership,  
6 every partner.

7 (C) In the case of a vendor that is a sole  
8 proprietorship, the sole proprietor.

9 (D) Each officer or manager of the vendor.

10 Each such vendor shall be responsible for payment of  
11 the cost of the criminal background check.

12 (3) Vendors of non-emergency medical transportation  
13 services may be required to post a surety bond. The  
14 Department shall establish, by rule, the criteria and  
15 requirements for determining when a surety bond must be  
16 posted and the value of the bond.

17 (4) The Department, or its agents, may refuse to accept  
18 requests for non-emergency transportation authorizations,  
19 including prior-approval and post-approval requests, for a  
20 specific non-emergency transportation vendor if:

21 (A) the Department has initiated a notice of  
22 termination of the vendor from participation in the  
23 medical assistance program; or

24 (B) the Department has issued notification of its  
25 withholding of payments pursuant to subsection (F-5)  
26 of this Section; or

1           (C) the Department has issued a notification of its  
2           withholding of payments due to reliable evidence of  
3           fraud or willful misrepresentation pending  
4           investigation.

5           (H) Nothing contained in this Code shall in any way limit  
6           or otherwise impair the authority or power of any State agency  
7           responsible for licensing of vendors.

8           (I) Based on a finding of noncompliance on the part of a  
9           nursing home with any requirement for certification under Title  
10          XVIII or XIX of the Social Security Act (42 U.S.C. Sec. 1395 et  
11          seq. or 42 U.S.C. Sec. 1396 et seq.), the Illinois Department  
12          may impose one or more of the following remedies after notice  
13          to the facility:

14               (1) Termination of the provider agreement.

15               (2) Temporary management.

16               (3) Denial of payment for new admissions.

17               (4) Civil money penalties.

18               (5) Closure of the facility in emergency situations or  
19          transfer of residents, or both.

20               (6) State monitoring.

21               (7) Denial of all payments when the Health Care Finance  
22          Administration has imposed this sanction.

23          The Illinois Department shall by rule establish criteria  
24          governing continued payments to a nursing facility subsequent  
25          to termination of the facility's provider agreement if, in the  
26          sole discretion of the Illinois Department, circumstances

1 affecting the health, safety, and welfare of the facility's  
2 residents require those continued payments. The Illinois  
3 Department may condition those continued payments on the  
4 appointment of temporary management, sale of the facility to  
5 new owners or operators, or other arrangements that the  
6 Illinois Department determines best serve the needs of the  
7 facility's residents.

8 Except in the case of a facility that has a right to a  
9 hearing on the finding of noncompliance before an agency of the  
10 federal government, a facility may request a hearing before a  
11 State agency on any finding of noncompliance within 60 days  
12 after the notice of the intent to impose a remedy. Except in  
13 the case of civil money penalties, a request for a hearing  
14 shall not delay imposition of the penalty. The choice of  
15 remedies is not appealable at a hearing. The level of  
16 noncompliance may be challenged only in the case of a civil  
17 money penalty. The Illinois Department shall provide by rule  
18 for the State agency that will conduct the evidentiary  
19 hearings.

20 The Illinois Department may collect interest on unpaid  
21 civil money penalties.

22 The Illinois Department may adopt all rules necessary to  
23 implement this subsection (I).

24 (J) The Illinois Department, by rule, may permit individual  
25 practitioners to designate that Department payments that may be  
26 due the practitioner be made to an alternate payee or alternate

1 payees.

2 (a) Such alternate payee or alternate payees shall be  
3 required to register as an alternate payee in the Medical  
4 Assistance Program with the Illinois Department.

5 (b) If a practitioner designates an alternate payee,  
6 the alternate payee and practitioner shall be jointly and  
7 severally liable to the Department for payments made to the  
8 alternate payee. Pursuant to subsection (E) of this  
9 Section, any Department action to recover money or  
10 overpayments from an alternate payee shall be subject to an  
11 administrative hearing.

12 (c) Registration as an alternate payee or alternate  
13 payees in the Illinois Medical Assistance Program shall be  
14 conditional. At any time, the Illinois Department may deny  
15 or cancel any alternate payee's registration in the  
16 Illinois Medical Assistance Program without cause. Any  
17 such denial or cancellation is not subject to an  
18 administrative hearing.

19 (d) The Illinois Department may seek a revocation of  
20 any alternate payee, and all owners, officers, and  
21 individuals with management responsibility for such  
22 alternate payee shall be permanently prohibited from  
23 participating as an owner, an officer, or an individual  
24 with management responsibility with an alternate payee in  
25 the Illinois Medical Assistance Program, if after  
26 reasonable notice and opportunity for a hearing the

1 Illinois Department finds that:

2 (1) the alternate payee is not complying with the  
3 Department's policy or rules and regulations, or with  
4 the terms and conditions prescribed by the Illinois  
5 Department in its alternate payee registration  
6 agreement; or

7 (2) the alternate payee has failed to keep or make  
8 available for inspection, audit, or copying, after  
9 receiving a written request from the Illinois  
10 Department, such records regarding payments claimed as  
11 an alternate payee; or

12 (3) the alternate payee has failed to furnish any  
13 information requested by the Illinois Department  
14 regarding payments claimed as an alternate payee; or

15 (4) the alternate payee has knowingly made, or  
16 caused to be made, any false statement or  
17 representation of a material fact in connection with  
18 the administration of the Illinois Medical Assistance  
19 Program; or

20 (5) the alternate payee, a person with management  
21 responsibility for an alternate payee, an officer or  
22 person owning, either directly or indirectly, 5% or  
23 more of the shares of stock or other evidences of  
24 ownership in a corporate alternate payee, or a partner  
25 in a partnership which is an alternate payee:

26 (a) was previously terminated from

1 participation as a vendor in the Illinois Medical  
2 Assistance Program, or was previously revoked as  
3 an alternate payee in the Illinois Medical  
4 Assistance Program, or was terminated from  
5 participation as a vendor in a medical assistance  
6 program in another state that is of the same kind  
7 as the program of medical assistance provided  
8 under Article V of this Code; or

9 (b) was a person with management  
10 responsibility for a vendor at the time the vendor  
11 was previously terminated from participation ~~as a~~  
12 ~~vendor~~ in the Illinois Medical Assistance Program  
13 and was found culpable by the Illinois Department  
14 for the conduct which was the basis for the  
15 vendor's termination, or was previously revoked as  
16 an alternate payee in the Illinois Medical  
17 Assistance Program, or was terminated from  
18 participation as a vendor in a medical assistance  
19 program in another state that is of the same kind  
20 as the program of medical assistance provided  
21 under Article V of this Code, during the time of  
22 conduct which was the basis for that vendor's  
23 termination or alternate payee's revocation; or

24 (c) was an officer, or person owning, either  
25 directly or indirectly, 5% or more of the shares of  
26 stock or other evidences of ownership in a

1 corporate vendor at the time the vendor was  
2 previously terminated from participation ~~as a~~  
3 ~~vendor~~ in the Illinois Medical Assistance Program  
4 and was found culpable by the Illinois Department  
5 for the conduct which was the basis for the  
6 vendor's termination, or was previously revoked as  
7 an alternate payee in the Illinois Medical  
8 Assistance Program, or was terminated from  
9 participation as a vendor in a medical assistance  
10 program in another state that is of the same kind  
11 as the program of medical assistance provided  
12 under Article V of this Code, during the time of  
13 conduct which was the basis for that vendor's  
14 termination; or

15 (d) was an owner of a sole proprietorship or  
16 partner in a partnership at the time the vendor was  
17 previously terminated from participation ~~as a~~  
18 ~~vendor~~ in the Illinois Medical Assistance Program  
19 and was found culpable by the Illinois Department  
20 for the conduct which was the basis for the  
21 vendor's termination, or was previously revoked as  
22 an alternate payee in the Illinois Medical  
23 Assistance Program, or was terminated from  
24 participation as a vendor in a medical assistance  
25 program in another state that is of the same kind  
26 as the program of medical assistance provided



1 under Article V of this Code, during the time of  
2 conduct which was the basis for that vendor's  
3 termination or alternate payee's revocation; or

4 (6) the alternate payee, a person with management  
5 responsibility for an alternate payee, an officer or  
6 person owning, either directly or indirectly, 5% or  
7 more of the shares of stock or other evidences of  
8 ownership in a corporate alternate payee, or a partner  
9 in a partnership which is an alternate payee:

10 (a) has engaged in conduct prohibited by  
11 applicable federal or State law or regulation  
12 relating to the Illinois Medical Assistance  
13 Program; or

14 (b) was a person with management  
15 responsibility for a vendor or alternate payee at  
16 the time that the vendor or alternate payee engaged  
17 in practices prohibited by applicable federal or  
18 State law or regulation relating to the Illinois  
19 Medical Assistance Program and was found culpable  
20 by the Illinois Department for the conduct which  
21 was the basis for the vendor's termination; or

22 (c) was an officer, or person owning, either  
23 directly or indirectly, 5% or more of the shares of  
24 stock or other evidences of ownership in a vendor  
25 or alternate payee at the time such vendor or  
26 alternate payee engaged in practices prohibited by

1 applicable federal or State law or regulation  
2 relating to the Illinois Medical Assistance  
3 Program and was found culpable by the Illinois  
4 Department for the conduct which was the basis for  
5 the vendor's termination; or

6 (d) was an owner of a sole proprietorship or  
7 partner in a partnership which was a vendor or  
8 alternate payee at the time such vendor or  
9 alternate payee engaged in practices prohibited by  
10 applicable federal or State law or regulation  
11 relating to the Illinois Medical Assistance  
12 Program and was found culpable by the Illinois  
13 Department for the conduct which was the basis for  
14 the vendor's termination; or

15 (7) the direct or indirect ownership of the vendor  
16 or alternate payee (including the ownership of a vendor  
17 or alternate payee that is a partner's interest in a  
18 vendor or alternate payee, or ownership of 5% or more  
19 of the shares of stock or other evidences of ownership  
20 in a corporate vendor or alternate payee) has been  
21 transferred by an individual who is terminated or  
22 barred from participating as a vendor or is prohibited  
23 or revoked as an alternate payee to the individual's  
24 spouse, child, brother, sister, parent, grandparent,  
25 grandchild, uncle, aunt, niece, nephew, cousin, or  
26 relative by marriage.

1           (K) The Illinois Department of Healthcare and Family  
2 Services may withhold payments, in whole or in part, to a  
3 provider or alternate payee upon receipt of evidence, received  
4 from State or federal law enforcement or federal oversight  
5 agencies or from the results of a preliminary Department audit  
6 and determined by the Department to be credible, that the  
7 circumstances giving rise to the need for a withholding of  
8 payments may involve fraud or willful misrepresentation under  
9 the Illinois Medical Assistance program. The Department shall  
10 by rule define what constitutes "credible" evidence for  
11 purposes of this subsection. The Department may withhold  
12 payments without first notifying the provider or alternate  
13 payee of its intention to withhold such payments. A provider or  
14 alternate payee may request a reconsideration of payment  
15 withholding, and the Department must grant such a request. The  
16 Department shall state by rule a process and criteria by which  
17 a provider or alternate payee may request full or partial  
18 release of payments withheld under this subsection. This  
19 request may be made at any time after the Department first  
20 withholds such payments.

21           (a) The Illinois Department must send notice of its  
22 withholding of program payments within 5 days of taking  
23 such action. The notice must set forth the general  
24 allegations as to the nature of the withholding action, but  
25 need not disclose any specific information concerning its  
26 ongoing investigation. The notice must do all of the

1 following:

2 (1) State that payments are being withheld in  
3 accordance with this subsection.

4 (2) State that the withholding is for a temporary  
5 period, as stated in paragraph (b) of this subsection,  
6 and cite the circumstances under which withholding  
7 will be terminated.

8 (3) Specify, when appropriate, which type or types  
9 of Medicaid claims withholding is effective.

10 (4) Inform the provider or alternate payee of the  
11 right to submit written evidence for reconsideration  
12 of the withholding by the Illinois Department.

13 (5) Inform the provider or alternate payee that a  
14 written request may be made to the Illinois Department  
15 for full or partial release of withheld payments and  
16 that such requests may be made at any time after the  
17 Department first withholds such payments.

18 (b) All withholding-of-payment actions under this  
19 subsection shall be temporary and shall not continue after  
20 any of the following:

21 (1) The Illinois Department or the prosecuting  
22 authorities determine that there is insufficient  
23 evidence of fraud or willful misrepresentation by the  
24 provider or alternate payee.

25 (2) Legal proceedings related to the provider's or  
26 alternate payee's alleged fraud, willful

1           misrepresentation, violations of this Act, or  
2           violations of the Illinois Department's administrative  
3           rules are completed.

4           (3) The withholding of payments for a period of 3  
5           years.

6           (c) The Illinois Department may adopt all rules  
7           necessary to implement this subsection (K).

8           (Source: P.A. 94-265, eff. 1-1-06; 94-975, eff. 6-30-06.)

9           Section 99. Effective date. This Act takes effect upon  
10          becoming law.".