



Sen. Kwame Raoul

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LRB098 02585 KTG 43047 a

1 AMENDMENT TO SENATE BILL 1330

2 AMENDMENT NO. _____. Amend Senate Bill 1330 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, or may exclude any such
14 person or entity from participation as such a vendor, and may
15 deny, suspend, or recover payments, if after reasonable notice
16 and opportunity for a hearing the Illinois Department finds:

1 (a) Such vendor is not complying with the Department's
2 policy or rules and regulations, or with the terms and
3 conditions prescribed by the Illinois Department in its
4 vendor agreement, which document shall be developed by the
5 Department as a result of negotiations with each vendor
6 category, including physicians, hospitals, long term care
7 facilities, pharmacists, optometrists, podiatrists and
8 dentists setting forth the terms and conditions applicable
9 to the participation of each vendor group in the program;
10 or

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

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

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

25 (e) Such vendor has furnished goods or services to a
26 recipient which are (1) in excess of need, (2) harmful, or

1 (3) of grossly inferior quality, all of such determinations
2 to be based upon competent medical judgment and
3 evaluations; or

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

11 (1) was previously terminated, suspended, or
12 excluded from participation in the Illinois medical
13 assistance program, or was terminated, suspended, or
14 excluded from participation in another state or
15 federal medical assistance or health care program; or

16 (2) was a person with management responsibility
17 for a vendor previously terminated, suspended, or
18 excluded from participation in the Illinois medical
19 assistance program, or terminated, suspended, or
20 excluded from participation in another state or
21 federal medical assistance or health care program
22 during the time of conduct which was the basis for that
23 vendor's termination, suspension, or exclusion; or

24 (3) 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 corporate or

1 limited liability company vendor previously
2 terminated, suspended, or excluded from participation
3 in the Illinois medical assistance program, or
4 terminated, suspended, or excluded from participation
5 in a state or federal medical assistance or health care
6 program during the time of conduct which was the basis
7 for that vendor's termination, suspension, or
8 exclusion; or

9 (4) was an owner of a sole proprietorship or
10 partner of a partnership previously terminated,
11 suspended, or excluded from participation in the
12 Illinois medical assistance program, or terminated,
13 suspended, or excluded from participation in a state or
14 federal medical assistance or health care program
15 during the time of conduct which was the basis for that
16 vendor's termination, suspension, or exclusion; or

17 (f-1) Such vendor has a delinquent debt owed to the
18 Illinois Department; or

19 (g) The vendor; a person with management
20 responsibility for a vendor; an officer or person owning,
21 either directly or indirectly, 5% or more of the shares of
22 stock or other evidences of ownership in a corporate or
23 limited liability company vendor; an owner of a sole
24 proprietorship which is a vendor; or a partner in a
25 partnership which is a vendor, either:

26 (1) has engaged in practices prohibited by

1 applicable federal or State law or regulation; or

2 (2) was a person with management responsibility
3 for a vendor at the time that such vendor engaged in
4 practices prohibited by applicable federal or State
5 law or regulation; or

6 (3) was an officer, or person owning, either
7 directly or indirectly, 5% or more of the shares of
8 stock or other evidences of ownership in a vendor at
9 the time such vendor engaged in practices prohibited by
10 applicable federal or State law or regulation; or

11 (4) was an owner of a sole proprietorship or
12 partner of a partnership which was a vendor at the time
13 such vendor engaged in practices prohibited by
14 applicable federal or State law or regulation; or

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

26 (A-5) The Illinois Department may deny, suspend, or

1 terminate the eligibility of any person, firm, corporation,
2 association, agency, institution, or other legal entity to
3 participate as a vendor of goods or services to recipients
4 under the medical assistance program under Article V, or may
5 exclude any such person or entity from participation as such a
6 vendor, if, after reasonable notice and opportunity for a
7 hearing, the Illinois Department finds that the vendor; a
8 person with management responsibility for a vendor; an officer
9 or person owning, either directly or indirectly, 5% or more of
10 the shares of stock or other evidences of ownership in a
11 corporate vendor; an owner of a sole proprietorship that is a
12 vendor; or a partner in a partnership that is a vendor has been
13 convicted of an offense based on fraud or willful
14 misrepresentation related to any of the following:

15 (1) The medical assistance program under Article V of
16 this Code.

17 (2) A medical assistance or health care program in
18 another state.

19 (3) The Medicare program under Title XVIII of the
20 Social Security Act.

21 (4) The provision of health care services.

22 (5) A violation of this Code, as provided in Article
23 VIIIA, or another state or federal medical assistance
24 program or health care program.

25 (A-10) The Illinois Department may deny, suspend, or
26 terminate the eligibility of any person, firm, corporation,

1 association, agency, institution, or other legal entity to
2 participate as a vendor of goods or services to recipients
3 under the medical assistance program under Article V, or may
4 exclude any such person or entity from participation as such a
5 vendor, if, after reasonable notice and opportunity for a
6 hearing, the Illinois Department finds that (i) the vendor,
7 (ii) a person with management responsibility for a vendor,
8 (iii) an officer or person owning, either directly or
9 indirectly, 5% or more of the shares of stock or other
10 evidences of ownership in a corporate vendor, (iv) an owner of
11 a sole proprietorship that is a vendor, or (v) a partner in a
12 partnership that is a vendor has been convicted of an offense
13 related to any of the following:

14 (1) Murder.

15 (2) A Class X felony under the Criminal Code of 1961 or
16 the Criminal Code of 2012.

17 (3) Sexual misconduct that may subject recipients to an
18 undue risk of harm.

19 (4) A criminal offense that may subject recipients to
20 an undue risk of harm.

21 (5) A crime of fraud or dishonesty.

22 (6) A crime involving a controlled substance.

23 (7) A misdemeanor relating to fraud, theft,
24 embezzlement, breach of fiduciary responsibility, or other
25 financial misconduct related to a health care program.

26 (A-15) The Illinois Department may deny the eligibility of

1 any person, firm, corporation, association, agency,
2 institution, or other legal entity to participate as a vendor
3 of goods or services to recipients under the medical assistance
4 program under Article V if, after reasonable notice and
5 opportunity for a hearing, the Illinois Department finds:

6 (1) The applicant or any person with management
7 responsibility for the applicant; an officer or member of
8 the board of directors of an applicant; an entity owning
9 (directly or indirectly) 5% or more of the shares of stock
10 or other evidences of ownership in a corporate vendor
11 applicant; an owner of a sole proprietorship applicant; a
12 partner in a partnership applicant; or a technical or other
13 advisor to an applicant has a debt owed to the Illinois
14 Department, and no payment arrangements acceptable to the
15 Illinois Department have been made by the applicant.

16 (2) The applicant or any person with management
17 responsibility for the applicant; an officer or member of
18 the board of directors of an applicant; an entity owning
19 (directly or indirectly) 5% or more of the shares of stock
20 or other evidences of ownership in a corporate vendor
21 applicant; an owner of a sole proprietorship applicant; a
22 partner in a partnership vendor applicant; or a technical
23 or other advisor to an applicant was (i) a person with
24 management responsibility, (ii) an officer or member of the
25 board of directors of an applicant, (iii) an entity owning
26 (directly or indirectly) 5% or more of the shares of stock

1 or other evidences of ownership in a corporate vendor, (iv)
2 an owner of a sole proprietorship, (v) a partner in a
3 partnership vendor, (vi) a technical or other advisor to a
4 vendor, during a period of time where the conduct of that
5 vendor resulted in a debt owed to the Illinois Department,
6 and no payment arrangements acceptable to the Illinois
7 Department have been made by that vendor.

8 (3) There is a credible allegation of the use,
9 transfer, or lease of assets of any kind to an applicant
10 from a current or prior vendor who has a debt owed to the
11 Illinois Department, no payment arrangements acceptable to
12 the Illinois Department have been made by that vendor or
13 the vendor's alternate payee, and the applicant knows or
14 should have known of such debt.

15 (4) There is a credible allegation of a transfer of
16 management responsibilities, or direct or indirect
17 ownership, to an applicant from a current or prior vendor
18 who has a debt owed to the Illinois Department, and no
19 payment arrangements acceptable to the Illinois Department
20 have been made by that vendor or the vendor's alternate
21 payee, and the applicant knows or should have known of such
22 debt.

23 (5) There is a credible allegation of the use,
24 transfer, or lease of assets of any kind to an applicant
25 who is a spouse, child, brother, sister, parent,
26 grandparent, grandchild, uncle, aunt, niece, relative by

1 marriage, nephew, cousin, or relative of a current or prior
2 vendor who has a debt owed to the Illinois Department and
3 no payment arrangements acceptable to the Illinois
4 Department have been made.

5 (6) There is a credible allegation that the applicant's
6 previous affiliations with a provider of medical services
7 that has an uncollected debt, a provider that has been or
8 is subject to a payment suspension under a federal health
9 care program, or a provider that has been previously
10 excluded from participation in the medical assistance
11 program, poses a risk of fraud, waste, or abuse to the
12 Illinois Department.

13 As used in this subsection, "credible allegation" is
14 defined to include an allegation from any source, including,
15 but not limited to, fraud hotline complaints, claims data
16 mining, patterns identified through provider audits, civil
17 actions filed under the Illinois False Claims Act, and law
18 enforcement investigations. An allegation is considered to be
19 credible when it has indicia of reliability.

20 (B) The Illinois Department shall deny, suspend or
21 terminate the eligibility of any person, firm, corporation,
22 association, agency, institution or other legal entity to
23 participate as a vendor of goods or services to recipients
24 under the medical assistance program under Article V, or may
25 exclude any such person or entity from participation as such a
26 vendor:

1 (1) immediately, if such vendor is not properly
2 licensed, certified, or authorized;

3 (2) within 30 days of the date when such vendor's
4 professional license, certification or other authorization
5 has been refused renewal, restricted, revoked, suspended,
6 or 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, suspension, or exclusion of a vendor
10 of goods or services from participation in the medical
11 assistance program authorized by this Article, a person with
12 management responsibility for such vendor during the time of
13 any conduct which served as the basis for that vendor's
14 termination, suspension, or exclusion is barred from
15 participation in the medical assistance program.

16 Upon termination, suspension, or exclusion of a corporate
17 vendor, the officers and persons owning, directly or
18 indirectly, 5% or more of the shares of stock or other
19 evidences of ownership in the vendor during the time of any
20 conduct which served as the basis for that vendor's
21 termination, suspension, or exclusion 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, suspended, or
25 excluded vendor may not transfer his or her ownership interest
26 in that vendor to his or her spouse, child, brother, sister,

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

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

15 A person who owns, directly or indirectly, 5% or more of
16 the shares of stock or other evidences of ownership in a
17 corporate or limited liability company vendor who owes a debt
18 to the Department, if that vendor has not made payment
19 arrangements acceptable to the Department, shall not transfer
20 his or her ownership interest in that vendor, or vendor assets
21 of any kind, to his or her spouse, child, brother, sister,
22 parent, grandparent, grandchild, uncle, aunt, niece, nephew,
23 cousin, or relative by marriage.

24 Rules adopted by the Illinois Department to implement these
25 provisions shall specifically include a definition of the term
26 "management responsibility" as used in this Section. Such

1 definition shall include, but not be limited to, typical job
2 titles, and duties and descriptions which will be considered as
3 within the definition of individuals with management
4 responsibility for a provider.

5 A vendor or a prior vendor who has been terminated,
6 excluded, or suspended from the medical assistance program, or
7 from another state or federal medical assistance or health care
8 program, and any individual currently or previously barred from
9 the medical assistance program, or from another state or
10 federal medical assistance or health care program, as a result
11 of being an officer or a person owning, directly or indirectly,
12 5% or more of the shares of stock or other evidences of
13 ownership in a corporate or limited liability company vendor
14 during the time of any conduct which served as the basis for
15 that vendor's termination, suspension, or exclusion, may be
16 required to post a surety bond as part of a condition of
17 enrollment or participation in the medical assistance program.
18 The Illinois Department shall establish, by rule, the criteria
19 and requirements for determining when a surety bond must be
20 posted and the value of the bond.

21 A vendor or a prior vendor who has a debt owed to the
22 Illinois Department and any individual currently or previously
23 barred from the medical assistance program, or from another
24 state or federal medical assistance or health care program, as
25 a result of being an officer or a person owning, directly or
26 indirectly, 5% or more of the shares of stock or other

1 evidences of ownership in that corporate or limited liability
2 company vendor during the time of any conduct which served as
3 the basis for the debt, may be required to post a surety bond
4 as part of a condition of enrollment or participation in the
5 medical assistance program. The Illinois Department shall
6 establish, by rule, the criteria and requirements for
7 determining when a surety bond must be posted and the value of
8 the bond.

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

1 program under Article V, (ii) a federal or another state's
2 medical assistance or health care program, or (iii) the
3 provision of health care services, then the vendor shall be
4 barred from participation for 5 years or for the length of the
5 vendor's sentence for that conviction, whichever is longer. At
6 the end of one year a vendor who has been terminated,
7 suspended, or excluded may apply for reinstatement to the
8 program. Upon proper application to be reinstated such vendor
9 may be deemed eligible by the Director providing that such
10 vendor meets the requirements for eligibility under this Code.
11 If such vendor is deemed not eligible for reinstatement, he
12 shall be barred from again applying for reinstatement for one
13 year from the date his application for reinstatement is denied.

14 A vendor whose termination, suspension, or exclusion from
15 participation in the Illinois medical assistance program under
16 Article V was based solely on an action by a governmental
17 entity other than the Illinois Department may, upon
18 reinstatement by that governmental entity or upon reversal of
19 the termination, suspension, or exclusion, apply for
20 rescission of the termination, suspension, or exclusion from
21 participation in the Illinois medical assistance program. Upon
22 proper application for rescission, the vendor may be deemed
23 eligible by the Director if the vendor meets the requirements
24 for eligibility under this Code.

25 If a vendor has been terminated, suspended, or excluded and
26 reinstated to the medical assistance program under Article V

1 and the vendor is terminated, suspended, or excluded a second
2 or subsequent time from the medical assistance program, the
3 vendor shall be barred from participation for at least 2 years,
4 except that if a vendor has been terminated, suspended, or
5 excluded a second time based on a conviction of a violation of
6 Article VIII A or a conviction of a felony based on fraud or a
7 willful misrepresentation related to (i) the medical
8 assistance program under Article V, (ii) a federal or another
9 state's medical assistance or health care program, or (iii) the
10 provision of health care services, then the vendor shall be
11 barred from participation for life. At the end of 2 years, a
12 vendor who has been terminated, suspended, or excluded may
13 apply for reinstatement to the program. Upon application to be
14 reinstated, the vendor may be deemed eligible if the vendor
15 meets the requirements for eligibility under this Code. If the
16 vendor is deemed not eligible for reinstatement, the vendor
17 shall be barred from again applying for reinstatement for 2
18 years from the date the vendor's application for reinstatement
19 is denied.

20 (E) The Illinois Department may recover money improperly or
21 erroneously paid, or overpayments, either by setoff, crediting
22 against future billings or by requiring direct repayment to the
23 Illinois Department. The Illinois Department may suspend or
24 deny payment, in whole or in part, if such payment would be
25 improper or erroneous or would otherwise result in overpayment.

26 (1) Payments may be suspended, denied, or recovered

1 from a vendor or alternate payee: (i) for services rendered
2 in violation of the Illinois Department's provider
3 notices, statutes, rules, and regulations; (ii) for
4 services rendered in violation of the terms and conditions
5 prescribed by the Illinois Department in its vendor
6 agreement; (iii) for any vendor who fails to grant the
7 Office of Inspector General timely access to full and
8 complete records, including, but not limited to, records
9 relating to recipients under the medical assistance
10 program for the most recent 6 years, in accordance with
11 Section 140.28 of Title 89 of the Illinois Administrative
12 Code, and other information for the purpose of audits,
13 investigations, or other program integrity functions,
14 after reasonable written request by the Inspector General;
15 this subsection (E) does not require vendors to make
16 available the medical records of patients for whom services
17 are not reimbursed under this Code or to provide access to
18 medical records more than 6 years old; (iv) when the vendor
19 has knowingly made, or caused to be made, any false
20 statement or representation of a material fact in
21 connection with the administration of the medical
22 assistance program; or (v) when the vendor previously
23 rendered services while terminated, suspended, or excluded
24 from participation in the medical assistance program or
25 while terminated or excluded from participation in another
26 state or federal medical assistance or health care program.

1 (2) Notwithstanding any other provision of law, if a
2 vendor has the same taxpayer identification number
3 (assigned under Section 6109 of the Internal Revenue Code
4 of 1986) as is assigned to a vendor with past-due financial
5 obligations to the Illinois Department, the Illinois
6 Department may make any necessary adjustments to payments
7 to that vendor in order to satisfy any past-due
8 obligations, regardless of whether the vendor is assigned a
9 different billing number under the medical assistance
10 program.

11 ~~If the Illinois Department establishes through an~~
12 ~~administrative hearing that the overpayments resulted from the~~
13 ~~vendor or alternate payee knowingly making, using, or causing~~
14 ~~to be made or used, a false record or statement to obtain~~
15 ~~payment or other benefit from the medical assistance program~~
16 ~~under Article V, the Department may recover interest on the~~
17 ~~amount of the payment or other benefit at the rate of 5% per~~
18 ~~annum. In addition to any other penalties that may be~~
19 ~~prescribed by law, such a vendor or alternate payee shall be~~
20 ~~subject to civil penalties consisting of an amount not to~~
21 ~~exceed 3 times the amount of payment or other benefit resulting~~
22 ~~from each such false record or statement, and the sum of \$2,000~~
23 ~~for each such false record or statement for payment or other~~
24 ~~benefit. For purposes of this paragraph, "knowingly" means that~~
25 ~~a vendor or alternate payee with respect to information: (i)~~
26 ~~has actual knowledge of the information, (ii) acts in~~

1 ~~deliberate ignorance of the truth or falsity of the~~
2 ~~information, or (iii) acts in reckless disregard of the truth~~
3 ~~or falsity of the information. No proof of specific intent to~~
4 ~~defraud is required.~~

5 (E-5) Civil monetary penalties for improperly filed
6 claims.

7 (1) As used in this subsection (E-5):

8 (a) "Knowingly" means that a person, with respect
9 to information: (i) has actual knowledge of the
10 information; (ii) acts in deliberate ignorance of the
11 truth or falsity of the information; or (iii) acts in
12 reckless disregard of the truth or falsity of the
13 information. No proof of specific intent to defraud is
14 required.

15 (b) "Overpayment" means any funds that a person
16 receives or retains from the medical assistance
17 program to which the person, after applicable
18 reconciliation, is not entitled under this Code.

19 (c) "Remuneration" means the offer or transfer of
20 items or services for free or for other than fair
21 market value by a person; however, remuneration does
22 not include items or services of a nominal value of no
23 more than \$10 per item or service, or \$50 in the
24 aggregate on an annual basis, or any other offer or
25 transfer of the items or services as determined by the
26 Department.

1 (d) "Should know" means that a person, with respect
2 to information: (i) acts in deliberate ignorance of the
3 truth or falsity of the information; or (ii) acts in
4 reckless disregard of the truth or falsity of the
5 information. No proof of specific intent to defraud is
6 required.

7 (2) Any person (including a vendor, provider,
8 organization, agency, or other entity, or an alternate
9 payee thereof, but excluding a recipient) who:

10 (a) knowingly presents or causes to be presented to
11 an officer, employee, or agent of the Department or the
12 State, a claim that the Department determines:

13 (i) is for a medical or other item or service
14 that the person knows or should know was not
15 provided as claimed, including any person who
16 engages in a pattern or practice of presenting or
17 causing to be presented a claim for an item or
18 service that is based on a code that the person
19 knows or should know will result in a greater
20 payment to the person than the code the person
21 knows or should know is applicable to the item or
22 service actually provided;

23 (ii) is for a medical or other item or service
24 and the person knows or should know that the claim
25 is false or fraudulent;

26 (iii) is presented for a physician's service,

1 or an item or service incident to a physician's
2 service, by a person who knows or should know that
3 the individual who furnished, or supervised the
4 furnishing of, the service:

5 (AA) was not licensed as a physician;

6 (BB) was licensed as a physician but such
7 license had been obtained through a
8 misrepresentation of material fact (including
9 cheating on an examination required for
10 licensing); or

11 (CC) represented to the patient at the
12 time the service was furnished that the
13 physician was certified in a medical specialty
14 by a medical specialty board, when the
15 individual was not so certified;

16 (iv) is for a medical or other item or service
17 furnished during a period in which the person was
18 excluded from the medical assistance program or a
19 federal or state health care program under which
20 the claim was made pursuant to applicable law; or

21 (v) is for a pattern of medical or other items
22 or services that a person knows or should know are
23 not medically necessary;

24 (b) knowingly presents or causes to be presented to
25 any person a request for payment which is in violation
26 of the conditions for receipt of vendor payments under

1 the medical assistance program under Section 11-13 of
2 this Code;

3 (c) knowingly gives or causes to be given to any
4 person, with respect to medical assistance program
5 coverage of inpatient hospital services, information
6 that he or she knows or should know is false or
7 misleading, and that could reasonably be expected to
8 influence the decision when to discharge such person or
9 other individual from the hospital;

10 (d) in the case of a person who is not an
11 organization, agency, or other entity, is excluded
12 from participating in the medical assistance program
13 or a federal or state health care program and who, at
14 the time of a violation of this subsection (E-5):

15 (i) retains a direct or indirect ownership or
16 control interest in an entity that is
17 participating in the medical assistance program or
18 a federal or state health care program, and who
19 knows or should know of the action constituting the
20 basis for the exclusion; or

21 (ii) is an officer or managing employee of such
22 an entity;

23 (e) offers or transfers remuneration to any
24 individual eligible for benefits under the medical
25 assistance program that such person knows or should
26 know is likely to influence such individual to order or

1 receive from a particular vendor, provider,
2 practitioner, or supplier any item or service for which
3 payment may be made, in whole or in part, under the
4 medical assistance program;

5 (f) arranges or contracts (by employment or
6 otherwise) with an individual or entity that the person
7 knows or should know is excluded from participation in
8 the medical assistance program or a federal or state
9 health care program, for the provision of items or
10 services for which payment may be made under such a
11 program;

12 (g) commits an act described in subsection (b) or
13 (c) of Section 8A-3;

14 (h) knowingly makes, uses, or causes to be made or
15 used, a false record or statement material to a false
16 or fraudulent claim for payment for items and services
17 furnished under the medical assistance program;

18 (i) fails to grant timely access, upon reasonable
19 request (as defined by the Department), to the
20 Inspector General, for the purpose of audits,
21 investigations, evaluations, or other statutory
22 functions of the Inspector General of the Department;

23 (j) orders or prescribes a medical or other item or
24 service during a period in which the person was
25 excluded from the medical assistance program or a
26 federal or state health care program, in the case where

1 the person knows or should know that a claim for such
2 medical or other item or service will be made under
3 such a program;

4 (k) knowingly makes or causes to be made any false
5 statement, omission, or misrepresentation of a
6 material fact in any application, bid, or contract to
7 participate or enroll as a vendor or provider of
8 services or a supplier under the medical assistance
9 program;

10 (l) knows of an overpayment and does not report and
11 return the overpayment to the Department;

12 shall be subject, in addition to any other penalties that
13 may be prescribed by law, to a civil money penalty of not
14 more than \$10,000 for each item or service (or, in cases
15 under paragraph (c), \$15,000 for each individual with
16 respect to whom false or misleading information was given;
17 in cases under paragraph (d), \$10,000 for each day the
18 prohibited relationship occurs; in cases under paragraph
19 (g), \$50,000 for each such act; in cases under paragraph
20 (h), \$50,000 for each false record or statement; in cases
21 under paragraph (i), \$15,000 for each day of the failure
22 described in such paragraph; or in cases under paragraph
23 (k), \$50,000 for each false statement, omission, or
24 misrepresentation of a material fact). In addition, such a
25 person shall be subject to an assessment of not more than 3
26 times the amount claimed for each such item or service in

1 lieu of damages sustained by State or the Department
2 because of such claim (or, in cases under paragraph (g),
3 damages of not more than 3 times the total amount of
4 remuneration offered, paid, solicited, or received,
5 without regard to whether a portion of such remuneration
6 was offered, paid, solicited, or received for a lawful
7 purpose; or in cases under paragraph (k), an assessment of
8 not more than 3 times the total amount claimed for each
9 item or service for which payment was made based upon the
10 application, bid, or contract containing the false
11 statement, omission, or misrepresentation of a material
12 fact).

13 (3) In addition, the Department may make a
14 determination in the same proceeding to exclude,
15 terminate, suspend, or bar the person from participation in
16 the medical assistance program.

17 (4) Prior to the imposition of any penalties or
18 sanctions, the affected person shall be afforded an
19 opportunity for a hearing after reasonable notice. The
20 Department shall establish hearing procedures by rule.

21 Any final order, decision, or other determination made,
22 issued, or executed by the Director under the provisions of
23 this subsection, whereby a person is aggrieved, shall be
24 subject to review in accordance with the provisions of the
25 Administrative Review Law, and the rules adopted pursuant
26 thereto, which shall apply to and govern all proceedings for

1 the judicial review of final administrative decisions of the
2 Director.

3 (F) The Illinois Department may withhold payments to any
4 vendor or alternate payee prior to or during the pendency of
5 any audit or proceeding under this Section, and through the
6 pendency of any administrative appeal or administrative review
7 by any court proceeding. The Illinois Department shall state by
8 rule with as much specificity as practicable the conditions
9 under which payments will not be withheld under this Section.
10 Payments may be denied for bills submitted with service dates
11 occurring during the pendency of a proceeding, after a final
12 decision has been rendered, or after the conclusion of any
13 administrative appeal, where the final administrative decision
14 is to terminate, exclude, or suspend eligibility to participate
15 in the medical assistance program. The Illinois Department
16 shall state by rule with as much specificity as practicable the
17 conditions under which payments will not be denied for such
18 bills. The Illinois Department shall state by rule a process
19 and criteria by which a vendor or alternate payee may request
20 full or partial release of payments withheld under this
21 subsection. The Department must complete a proceeding under
22 this Section in a timely manner.

23 Notwithstanding recovery allowed under subsection (E) or
24 this subsection (F), the Illinois Department may withhold
25 payments to any vendor or alternate payee who is not properly
26 licensed, certified, or in compliance with State or federal

1 agency regulations. Payments may be denied for bills submitted
2 with service dates occurring during the period of time that a
3 vendor is not properly licensed, certified, or in compliance
4 with State or federal regulations. Facilities licensed under
5 the Nursing Home Care Act shall have payments denied or
6 withheld pursuant to subsection (I) of this Section.

7 (F-5) The Illinois Department may temporarily withhold
8 payments to a vendor or alternate payee if any of the following
9 individuals have been indicted or otherwise charged under a law
10 of the United States or this or any other state with an offense
11 that is based on alleged fraud or willful misrepresentation on
12 the part of the individual related to (i) the medical
13 assistance program under Article V of this Code, (ii) a federal
14 or another state's medical assistance or health care program,
15 or (iii) the provision of health care services:

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

20 (2) If the vendor is a sole proprietorship: the owner
21 of the sole proprietorship.

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

24 (4) If the vendor or alternate payee is any other
25 business entity authorized by law to transact business in
26 this State: an officer of the entity or an individual who

1 owns, either directly or indirectly, 5% or more of the
2 evidences of ownership of the entity.

3 If the Illinois Department withholds payments to a vendor
4 or alternate payee under this subsection, the Department shall
5 not release those payments to the vendor or alternate payee
6 while any criminal proceeding related to the indictment or
7 charge is pending unless the Department determines that there
8 is good cause to release the payments before completion of the
9 proceeding. If the indictment or charge results in the
10 individual's conviction, the Illinois Department shall retain
11 all withheld payments, which shall be considered forfeited to
12 the Department. If the indictment or charge does not result in
13 the individual's conviction, the Illinois Department shall
14 release to the vendor or alternate payee all withheld payments.

15 (F-10) If the Illinois Department establishes that the
16 vendor or alternate payee owes a debt to the Illinois
17 Department, and the vendor or alternate payee subsequently
18 fails to pay or make satisfactory payment arrangements with the
19 Illinois Department for the debt owed, the Illinois Department
20 may seek all remedies available under the law of this State to
21 recover the debt, including, but not limited to, wage
22 garnishment or the filing of claims or liens against the vendor
23 or alternate payee.

24 (F-15) Enforcement of judgment.

25 (1) Any fine, recovery amount, other sanction, or costs
26 imposed, or part of any fine, recovery amount, other

1 sanction, or cost imposed, remaining unpaid after the
2 exhaustion of or the failure to exhaust judicial review
3 procedures under the Illinois Administrative Review Law is
4 a debt due and owing the State and may be collected using
5 all remedies available under the law.

6 (2) After expiration of the period in which judicial
7 review under the Illinois Administrative Review Law may be
8 sought for a final administrative decision, unless stayed
9 by a court of competent jurisdiction, the findings,
10 decision, and order of the Director may be enforced in the
11 same manner as a judgment entered by a court of competent
12 jurisdiction.

13 (3) In any case in which any person or entity has
14 failed to comply with a judgment ordering or imposing any
15 fine or other sanction, any expenses incurred by the
16 Illinois Department to enforce the judgment, including,
17 but not limited to, attorney's fees, court costs, and costs
18 related to property demolition or foreclosure, after they
19 are fixed by a court of competent jurisdiction or the
20 Director, shall be a debt due and owing the State and may
21 be collected in accordance with applicable law. Prior to
22 any expenses being fixed by a final administrative decision
23 pursuant to this subsection (F-15), the Illinois
24 Department shall provide notice to the individual or entity
25 that states that the individual or entity shall appear at a
26 hearing before the administrative hearing officer to

1 determine whether the individual or entity has failed to
2 comply with the judgment. The notice shall set the date for
3 such a hearing, which shall not be less than 7 days from
4 the date that notice is served. If notice is served by
5 mail, the 7-day period shall begin to run on the date that
6 the notice was deposited in the mail.

7 (4) Upon being recorded in the manner required by
8 Article XII of the Code of Civil Procedure or by the
9 Uniform Commercial Code, a lien shall be imposed on the
10 real estate or personal estate, or both, of the individual
11 or entity in the amount of any debt due and owing the State
12 under this Section. The lien may be enforced in the same
13 manner as a judgment of a court of competent jurisdiction.
14 A lien shall attach to all property and assets of such
15 person, firm, corporation, association, agency,
16 institution, or other legal entity until the judgment is
17 satisfied.

18 (5) The Director may set aside any judgment entered by
19 default and set a new hearing date upon a petition filed at
20 any time (i) if the petitioner's failure to appear at the
21 hearing was for good cause, or (ii) if the petitioner
22 established that the Department did not provide proper
23 service of process. If any judgment is set aside pursuant
24 to this paragraph (5), the hearing officer shall have
25 authority to enter an order extinguishing any lien which
26 has been recorded for any debt due and owing the Illinois

1 Department as a result of the vacated default judgment.

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

9 (G-5) Vendors who pose a risk of fraud, waste, abuse, or
10 harm.

11 (1) Notwithstanding any other provision in this
12 Section, the Department may terminate, suspend, or exclude
13 vendors who pose a risk of fraud, waste, abuse, or harm
14 from participation in the medical assistance program prior
15 to an evidentiary hearing but after reasonable notice and
16 opportunity to respond as established by the Department by
17 rule.

18 (2) Vendors who pose a risk of fraud, waste, abuse, or
19 harm shall submit to a fingerprint-based criminal
20 background check on current and future information
21 available in the State system and current information
22 available through the Federal Bureau of Investigation's
23 system by submitting all necessary fees and information in
24 the form and manner prescribed by the Department of State
25 Police. The following individuals shall be subject to the
26 check:

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

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

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

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

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

11 (3) Vendors who pose a risk of fraud, waste, abuse, or
12 harm may be required to post a surety bond. The Department
13 shall establish, by rule, the criteria and requirements for
14 determining when a surety bond must be posted and the value
15 of the bond.

16 (4) The Department, or its agents, may refuse to accept
17 requests for authorization from specific vendors who pose a
18 risk of fraud, waste, abuse, or harm, including
19 prior-approval and post-approval requests, if:

20 (A) the Department has initiated a notice of
21 termination, suspension, or exclusion of the vendor
22 from participation in the medical assistance program;
23 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 (5) As used in this subsection, the following terms are
6 defined as follows:

7 (A) "Fraud" means an intentional deception or
8 misrepresentation made by a person with the knowledge
9 that the deception could result in some unauthorized
10 benefit to himself or herself or some other person. It
11 includes any act that constitutes fraud under
12 applicable federal or State law.

13 (B) "Abuse" means provider practices that are
14 inconsistent with sound fiscal, business, or medical
15 practices and that result in an unnecessary cost to the
16 medical assistance program or in reimbursement for
17 services that are not medically necessary or that fail
18 to meet professionally recognized standards for health
19 care. It also includes recipient practices that result
20 in unnecessary cost to the medical assistance program.
21 Abuse does not include diagnostic or therapeutic
22 measures conducted primarily as a safeguard against
23 possible vendor liability.

24 (C) "Waste" means the unintentional misuse of
25 medical assistance resources, resulting in unnecessary
26 cost to the medical assistance program. Waste does not

1 include diagnostic or therapeutic measures conducted
2 primarily as a safeguard against possible vendor
3 liability.

4 (D) "Harm" means physical, mental, or monetary
5 damage to recipients or to the medical assistance
6 program.

7 (G-6) The Illinois Department, upon making a determination
8 based upon information in the possession of the Illinois
9 Department that continuation of participation in the medical
10 assistance program by a vendor would constitute an immediate
11 danger to the public, may immediately suspend such vendor's
12 participation in the medical assistance program without a
13 hearing. In instances in which the Illinois Department
14 immediately suspends the medical assistance program
15 participation of a vendor under this Section, a hearing upon
16 the vendor's participation must be convened by the Illinois
17 Department within 15 days after such suspension and completed
18 without appreciable delay. Such hearing shall be held to
19 determine whether to recommend to the Director that the
20 vendor's medical assistance program participation be denied,
21 terminated, suspended, placed on provisional status, or
22 reinstated. In the hearing, any evidence relevant to the vendor
23 constituting an immediate danger to the public may be
24 introduced against such vendor; provided, however, that the
25 vendor, or his or her counsel, shall have the opportunity to
26 discredit, impeach, and submit evidence rebutting such

1 evidence.

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

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

11 (1) Termination of the provider agreement.

12 (2) Temporary management.

13 (3) Denial of payment for new admissions.

14 (4) Civil money penalties.

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

17 (6) State monitoring.

18 (7) Denial of all payments when the U.S. Department of
19 Health and Human Services has imposed this sanction.

20 The Illinois Department shall by rule establish criteria
21 governing continued payments to a nursing facility subsequent
22 to termination of the facility's provider agreement if, in the
23 sole discretion of the Illinois Department, circumstances
24 affecting the health, safety, and welfare of the facility's
25 residents require those continued payments. The Illinois
26 Department may condition those continued payments on the

1 appointment of temporary management, sale of the facility to
2 new owners or operators, or other arrangements that the
3 Illinois Department determines best serve the needs of the
4 facility's residents.

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

17 The Illinois Department may collect interest on unpaid
18 civil money penalties.

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

21 (J) The Illinois Department, by rule, may permit individual
22 practitioners to designate that Department payments that may be
23 due the practitioner be made to an alternate payee or alternate
24 payees.

25 (a) Such alternate payee or alternate payees shall be
26 required to register as an alternate payee in the Medical

1 Assistance Program with the Illinois Department.

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

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

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

25 (1) the alternate payee is not complying with the
26 Department's policy or rules and regulations, or with

1 the terms and conditions prescribed by the Illinois
2 Department in its alternate payee registration
3 agreement; or

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

9 (3) the alternate payee has failed to furnish any
10 information requested by the Illinois Department
11 regarding payments claimed as an alternate payee; or

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

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

23 (a) was previously terminated, suspended, or
24 excluded from participation as a vendor in the
25 Illinois Medical Assistance Program, or was
26 previously revoked as an alternate payee in the

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

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

21 (c) was an officer, or person owning, either
22 directly or indirectly, 5% or more of the shares of
23 stock or other evidences of ownership in a
24 corporate vendor previously terminated, suspended,
25 or excluded from participation as a vendor in the
26 Illinois Medical Assistance Program, or was

1 previously revoked as an alternate payee in the
2 Illinois Medical Assistance Program, or was
3 terminated, suspended, or excluded from
4 participation as a vendor in a medical assistance
5 program in another state that is of the same kind
6 as the program of medical assistance provided
7 under Article V of this Code, during the time of
8 conduct which was the basis for that vendor's
9 termination, suspension, or exclusion; or

10 (d) was an owner of a sole proprietorship or
11 partner in a partnership previously terminated,
12 suspended, or excluded from participation as a
13 vendor in the Illinois Medical Assistance Program,
14 or was previously revoked as an alternate payee in
15 the Illinois Medical Assistance Program, or was
16 terminated, suspended, or excluded from
17 participation as a vendor in a medical assistance
18 program in another state that is of the same kind
19 as the program of medical assistance provided
20 under Article V of this Code, during the time of
21 conduct which was the basis for that vendor's
22 termination, suspension, or exclusion or alternate
23 payee's revocation; or

24 (6) the alternate payee, a person with management
25 responsibility for an alternate payee, an officer or
26 person owning, either directly or indirectly, 5% or

1 more of the shares of stock or other evidences of
2 ownership in a corporate alternate payee, or a partner
3 in a partnership which is an alternate payee:

4 (a) has engaged in conduct prohibited by
5 applicable federal or State law or regulation
6 relating to the Illinois Medical Assistance
7 Program; or

8 (b) was a person with management
9 responsibility for a vendor or alternate payee at
10 the time that the vendor or alternate payee engaged
11 in practices prohibited by applicable federal or
12 State law or regulation relating to the Illinois
13 Medical Assistance Program; or

14 (c) 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
17 or alternate payee at the time such vendor or
18 alternate payee engaged in practices prohibited by
19 applicable federal or State law or regulation
20 relating to the Illinois Medical Assistance
21 Program; or

22 (d) was an owner of a sole proprietorship or
23 partner in a partnership which was a vendor or
24 alternate payee at the time such vendor or
25 alternate payee engaged in practices prohibited by
26 applicable federal or State law or regulation

1 relating to the Illinois Medical Assistance
2 Program; or

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

15 (K) The Illinois Department of Healthcare and Family
16 Services may withhold payments, in whole or in part, to a
17 provider or alternate payee where there is credible evidence,
18 received from State or federal law enforcement or federal
19 oversight agencies or from the results of a preliminary
20 Department audit, that the circumstances giving rise to the
21 need for a withholding of payments may involve fraud or willful
22 misrepresentation under the Illinois Medical Assistance
23 program. The Department shall by rule define what constitutes
24 "credible" evidence for purposes of this subsection. The
25 Department may withhold payments without first notifying the
26 provider or alternate payee of its intention to withhold such

1 payments. A provider or alternate payee may request a
2 reconsideration of payment withholding, and the Department
3 must grant such a request. The Department shall state by rule a
4 process and criteria by which a provider or alternate payee may
5 request full or partial release of payments withheld under this
6 subsection. This request may be made at any time after the
7 Department first withholds such payments.

8 (a) The Illinois Department must send notice of its
9 withholding of program payments within 5 days of taking
10 such action. The notice must set forth the general
11 allegations as to the nature of the withholding action, but
12 need not disclose any specific information concerning its
13 ongoing investigation. The notice must do all of the
14 following:

15 (1) State that payments are being withheld in
16 accordance with this subsection.

17 (2) State that the withholding is for a temporary
18 period, as stated in paragraph (b) of this subsection,
19 and cite the circumstances under which withholding
20 will be terminated.

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

23 (4) Inform the provider or alternate payee of the
24 right to submit written evidence for reconsideration
25 of the withholding by the Illinois Department.

26 (5) Inform the provider or alternate payee that a

1 written request may be made to the Illinois Department
2 for full or partial release of withheld payments and
3 that such requests may be made at any time after the
4 Department first withholds such payments.

5 (b) All withholding-of-payment actions under this
6 subsection shall be temporary and shall not continue after
7 any of the following:

8 (1) The Illinois Department or the prosecuting
9 authorities determine that there is insufficient
10 evidence of fraud or willful misrepresentation by the
11 provider or alternate payee.

12 (2) Legal proceedings related to the provider's or
13 alternate payee's alleged fraud, willful
14 misrepresentation, violations of this Act, or
15 violations of the Illinois Department's administrative
16 rules are completed.

17 (3) The withholding of payments for a period of 3
18 years.

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

21 (K-5) The Illinois Department may withhold payments, in
22 whole or in part, to a provider or alternate payee upon
23 initiation of an audit, quality of care review, investigation
24 when there is a credible allegation of fraud, or the provider
25 or alternate payee demonstrating a clear failure to cooperate
26 with the Illinois Department such that the circumstances give

1 rise to the need for a withholding of payments. As used in this
2 subsection, "credible allegation" is defined to include an
3 allegation from any source, including, but not limited to,
4 fraud hotline complaints, claims data mining, patterns
5 identified through provider audits, civil actions filed under
6 the Illinois False Claims Act, and law enforcement
7 investigations. An allegation is considered to be credible when
8 it has indicia of reliability. The Illinois Department may
9 withhold payments without first notifying the provider or
10 alternate payee of its intention to withhold such payments. A
11 provider or alternate payee may request a hearing or a
12 reconsideration of payment withholding, and the Illinois
13 Department must grant such a request. The Illinois Department
14 shall state by rule a process and criteria by which a provider
15 or alternate payee may request a hearing or a reconsideration
16 for the full or partial release of payments withheld under this
17 subsection. This request may be made at any time after the
18 Illinois Department first withholds such payments.

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

26 (1) State that payments are being withheld in

1 accordance with this subsection.

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

6 (3) Specify, when appropriate, which type or types
7 of claims are withheld.

8 (4) Inform the provider or alternate payee of the
9 right to request a hearing or a reconsideration of the
10 withholding by the Illinois Department, including the
11 ability to submit written evidence.

12 (5) Inform the provider or alternate payee that a
13 written request may be made to the Illinois Department
14 for a hearing or a reconsideration for the full or
15 partial release of withheld payments and that such
16 requests may be made at any time after the Illinois
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 determines that there
22 is insufficient evidence of fraud, or the provider or
23 alternate payee demonstrates clear cooperation with
24 the Illinois Department, as determined by the Illinois
25 Department, such that the circumstances do not give
26 rise to the need for withholding of payments; or

1 (2) The withholding of payments has lasted for a
2 period in excess of 3 years.

3 (c) The Illinois Department may adopt all rules
4 necessary to implement this subsection (K-5).

5 (L) The Illinois Department shall establish a protocol to
6 enable health care providers to disclose an actual or potential
7 violation of this Section pursuant to a self-referral
8 disclosure protocol, referred to in this subsection as "the
9 protocol". The protocol shall include direction for health care
10 providers on a specific person, official, or office to whom
11 such disclosures shall be made. The Illinois Department shall
12 post information on the protocol on the Illinois Department's
13 public website. The Illinois Department may adopt rules
14 necessary to implement this subsection (L). In addition to
15 other factors that the Illinois Department finds appropriate,
16 the Illinois Department may consider a health care provider's
17 timely use or failure to use the protocol in considering the
18 provider's failure to comply with this Code.

19 (M) Notwithstanding any other provision of this Code, the
20 Illinois Department, at its discretion, may exempt an entity
21 licensed under the Nursing Home Care Act and the ID/DD
22 Community Care Act from the provisions of subsections (A-15),
23 (B), and (C) of this Section if the licensed entity is in
24 receivership.

25 (Source: P.A. 97-689, eff. 6-14-12; 97-1150, eff. 1-25-13.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".