



Sen. Don Harmon

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LRB099 19598 KTG 49013 a

1 AMENDMENT TO HOUSE BILL 5539

2 AMENDMENT NO. _____. Amend House Bill 5539 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, podiatric
8 physicians, and dentists setting forth the terms and
9 conditions applicable to the participation of each vendor
10 group in the program; 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 Notwithstanding any other provision to the contrary, the
2 Department shall not seek recovery of overpayments,
3 adjustments, or other amounts due that are over 6 years old
4 unless such overpayments, adjustments, or other amounts
5 due were made pursuant to a vendor's criminal activity.

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

16 (E-5) Civil monetary penalties.

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

18 (a) "Knowingly" means that a person, with respect
19 to information: (i) has actual knowledge of the
20 information; (ii) acts in deliberate ignorance of the
21 truth or falsity of the information; or (iii) acts in
22 reckless disregard of the truth or falsity of the
23 information. No proof of specific intent to defraud is
24 required.

25 (b) "Overpayment" means any funds that a person
26 receives or retains from the medical assistance

1 program to which the person, after applicable
2 reconciliation, is not entitled under this Code.

3 (c) "Remuneration" means the offer or transfer of
4 items or services for free or for other than fair
5 market value by a person; however, remuneration does
6 not include items or services of a nominal value of no
7 more than \$10 per item or service, or \$50 in the
8 aggregate on an annual basis, or any other offer or
9 transfer of items or services as determined by the
10 Department.

11 (d) "Should know" means that a person, with respect
12 to information: (i) acts in deliberate ignorance of the
13 truth or falsity of the information; or (ii) acts in
14 reckless disregard of the truth or falsity of the
15 information. No proof of specific intent to defraud is
16 required.

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

20 (a) knowingly presents or causes to be presented to
21 an officer, employee, or agent of the State, a claim
22 that the Department determines:

23 (i) is for a medical or other item or service
24 that the person knows or should know was not
25 provided as claimed, including any person who
26 engages in a pattern or practice of presenting or

1 causing to be presented a claim for an item or
2 service that is based on a code that the person
3 knows or should know will result in a greater
4 payment to the person than the code the person
5 knows or should know is applicable to the item or
6 service actually provided;

7 (ii) is for a medical or other item or service
8 and the person knows or should know that the claim
9 is false or fraudulent;

10 (iii) is presented for a vendor physician's
11 service, or an item or service incident to a vendor
12 physician's service, by a person who knows or
13 should know that the individual who furnished, or
14 supervised the furnishing of, the service:

15 (AA) was not licensed as a physician;

16 (BB) was licensed as a physician but such
17 license had been obtained through a
18 misrepresentation of material fact (including
19 cheating on an examination required for
20 licensing); or

21 (CC) represented to the patient at the
22 time the service was furnished that the
23 physician was certified in a medical specialty
24 by a medical specialty board, when the
25 individual was not so certified;

26 (iv) is for a medical or other item or service

1 furnished during a period in which the person was
2 excluded from the medical assistance program or a
3 federal or state health care program under which
4 the claim was made pursuant to applicable law; or

5 (v) is for a pattern of medical or other items
6 or services that a person knows or should know are
7 not medically necessary;

8 (b) knowingly presents or causes to be presented to
9 any person a request for payment which is in violation
10 of the conditions for receipt of vendor payments under
11 the medical assistance program under Section 11-13 of
12 this Code;

13 (c) knowingly gives or causes to be given to any
14 person, with respect to medical assistance program
15 coverage of inpatient hospital services, information
16 that he or she knows or should know is false or
17 misleading, and that could reasonably be expected to
18 influence the decision when to discharge such person or
19 other individual from the hospital;

20 (d) in the case of a person who is not an
21 organization, agency, or other entity, is excluded
22 from participating in the medical assistance program
23 or a federal or state health care program and who, at
24 the time of a violation of this subsection (E-5):

25 (i) retains a direct or indirect ownership or
26 control interest in an entity that is

1 participating in the medical assistance program or
2 a federal or state health care program, and who
3 knows or should know of the action constituting the
4 basis for the exclusion; or

5 (ii) is an officer or managing employee of such
6 an entity;

7 (e) offers or transfers remuneration to any
8 individual eligible for benefits under the medical
9 assistance program that such person knows or should
10 know is likely to influence such individual to order or
11 receive from a particular vendor, provider,
12 practitioner, or supplier any item or service for which
13 payment may be made, in whole or in part, under the
14 medical assistance program;

15 (f) arranges or contracts (by employment or
16 otherwise) with an individual or entity that the person
17 knows or should know is excluded from participation in
18 the medical assistance program or a federal or state
19 health care program, for the provision of items or
20 services for which payment may be made under such a
21 program;

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

24 (h) knowingly makes, uses, or causes to be made or
25 used, a false record or statement material to a false
26 or fraudulent claim for payment for items and services

1 furnished under the medical assistance program;

2 (i) fails to grant timely access, upon reasonable
3 request (as defined by the Department by rule), to the
4 Inspector General, for the purpose of audits,
5 investigations, evaluations, or other statutory
6 functions of the Inspector General of the Department;

7 (j) orders or prescribes a medical or other item or
8 service during a period in which the person was
9 excluded from the medical assistance program or a
10 federal or state health care program, in the case where
11 the person knows or should know that a claim for such
12 medical or other item or service will be made under
13 such a program;

14 (k) knowingly makes or causes to be made any false
15 statement, omission, or misrepresentation of a
16 material fact in any application, bid, or contract to
17 participate or enroll as a vendor or provider of
18 services or a supplier under the medical assistance
19 program;

20 (l) knows of an overpayment and does not report and
21 return the overpayment to the Department in accordance
22 with paragraph (6);

23 shall be subject, in addition to any other penalties that
24 may be prescribed by law, to a civil money penalty of not
25 more than \$10,000 for each item or service (or, in cases
26 under subparagraph (c), \$15,000 for each individual with

1 respect to whom false or misleading information was given;
2 in cases under subparagraph (d), \$10,000 for each day the
3 prohibited relationship occurs; in cases under
4 subparagraph (g), \$50,000 for each such act; in cases under
5 subparagraph (h), \$50,000 for each false record or
6 statement; in cases under subparagraph (i), \$15,000 for
7 each day of the failure described in such subparagraph; or
8 in cases under subparagraph (k), \$50,000 for each false
9 statement, omission, or misrepresentation of a material
10 fact). In addition, such a person shall be subject to an
11 assessment of not more than 3 times the amount claimed for
12 each such item or service in lieu of damages sustained by
13 the State because of such claim (or, in cases under
14 subparagraph (g), damages of not more than 3 times the
15 total amount of remuneration offered, paid, solicited, or
16 received, without regard to whether a portion of such
17 remuneration was offered, paid, solicited, or received for
18 a lawful purpose; or in cases under subparagraph (k), an
19 assessment of not more than 3 times the total amount
20 claimed for each item or service for which payment was made
21 based upon the application, bid, or contract containing the
22 false statement, omission, or misrepresentation of a
23 material fact).

24 (3) In addition, the Director or his or her designee
25 may make a determination in the same proceeding to exclude,
26 terminate, suspend, or bar the person from participation in

1 the medical assistance program.

2 (4) The Illinois Department may seek the civil monetary
3 penalties and exclusion, termination, suspension, or
4 barment identified in this subsection (E-5). Prior to the
5 imposition of any penalties or sanctions, the affected
6 person shall be afforded an opportunity for a hearing after
7 reasonable notice. The Department shall establish hearing
8 procedures by rule.

9 (5) Any final order, decision, or other determination
10 made, issued, or executed by the Director under the
11 provisions of this subsection (E-5), whereby a person is
12 aggrieved, shall be subject to review in accordance with
13 the provisions of the Administrative Review Law, and the
14 rules adopted pursuant thereto, which shall apply to and
15 govern all proceedings for the judicial review of final
16 administrative decisions of the Director.

17 (6) (a) If a person has received an overpayment, the
18 person shall:

19 (i) report and return the overpayment to the
20 Department at the correct address; and

21 (ii) notify the Department in writing of the reason
22 for the overpayment.

23 (b) An overpayment must be reported and returned under
24 subparagraph (a) by the later of:

25 (i) the date which is 60 days after the date on
26 which the overpayment was identified; or

1 (ii) the date any corresponding cost report is due,
2 if applicable.

3 (E-10) A vendor who disputes an overpayment identified as
4 part of a Department audit shall utilize the Department's
5 self-referral disclosure protocol as set forth under this Code
6 to identify, investigate, and return to the Department any
7 undisputed audit overpayment amount. Unless the disputed
8 overpayment amount is subject to a fraud payment suspension, or
9 involves a termination sanction, the Department shall defer the
10 recovery of the disputed overpayment amount up to one year
11 after the date of the Department's final audit determination,
12 or earlier, or as required by State or federal law. If the
13 administrative hearing extends beyond one year, and such delay
14 was not caused by the request of the vendor, then the
15 Department shall not recover the disputed overpayment amount
16 until the date of the final administrative decision. If a final
17 administrative decision establishes that the disputed
18 overpayment amount is owed to the Department, then the amount
19 shall be immediately due to the Department. The Department
20 shall be entitled to recover interest from the vendor on the
21 overpayment amount from the date of the overpayment through the
22 date the vendor returns the overpayment to the Department at a
23 rate not to exceed the Wall Street Journal Prime Rate, as
24 published from time to time, but not to exceed 5%. Any interest
25 billed by the Department shall be due immediately upon receipt
26 of the Department's billing statement.

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

21 Notwithstanding recovery allowed under subsection (E) or
22 this subsection (F), the Illinois Department may withhold
23 payments to any vendor or alternate payee who is not properly
24 licensed, certified, or in compliance with State or federal
25 agency regulations. Payments may be denied for bills submitted
26 with service dates occurring during the period of time that a

1 vendor is not properly licensed, certified, or in compliance
2 with State or federal regulations. Facilities licensed under
3 the Nursing Home Care Act shall have payments denied or
4 withheld pursuant to subsection (I) of this Section.

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

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

18 (2) If the vendor is a sole proprietorship: the owner
19 of the sole proprietorship.

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

22 (4) If the vendor or alternate payee is any other
23 business entity authorized by law to transact business in
24 this State: an officer of the entity or an individual who
25 owns, either directly or indirectly, 5% or more of the
26 evidences of ownership of the entity.

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

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

22 (F-15) Enforcement of judgment.

23 (1) Any fine, recovery amount, other sanction, or costs
24 imposed, or part of any fine, recovery amount, other
25 sanction, or cost imposed, remaining unpaid after the
26 exhaustion of or the failure to exhaust judicial review

1 procedures under the Illinois Administrative Review Law is
2 a debt due and owing the State and may be collected using
3 all remedies available under the law.

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

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

1 such a hearing, which shall not be less than 7 days from
2 the date that notice is served. If notice is served by
3 mail, the 7-day period shall begin to run on the date that
4 the notice was deposited in the mail.

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

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

26 (G) The provisions of the Administrative Review Law, as now

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

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

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

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

25 (A) In the case of a vendor that is a corporation,
26 every shareholder who owns, directly or indirectly, 5%

1 or more of the outstanding shares of the corporation.

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

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

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

7 Each such vendor shall be responsible for payment of
8 the cost of the criminal background check.

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

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

18 (A) the Department has initiated a notice of
19 termination, suspension, or exclusion of the vendor
20 from participation in the medical assistance program;
21 or

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

25 (C) the Department has issued a notification of its
26 withholding of payments due to reliable evidence of

1 fraud or willful misrepresentation pending
2 investigation.

3 (5) As used in this subsection, the following terms are
4 defined as follows:

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

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

22 (C) "Waste" means the unintentional misuse of
23 medical assistance resources, resulting in unnecessary
24 cost to the medical assistance program. Waste does not
25 include diagnostic or therapeutic measures conducted
26 primarily as a safeguard against possible vendor

1 liability.

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

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

26 (H) Nothing contained in this Code shall in any way limit

1 or otherwise impair the authority or power of any State agency
2 responsible for licensing of vendors.

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

9 (1) Termination of the provider agreement.

10 (2) Temporary management.

11 (3) Denial of payment for new admissions.

12 (4) Civil money penalties.

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

15 (6) State monitoring.

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

18 The Illinois Department shall by rule establish criteria
19 governing continued payments to a nursing facility subsequent
20 to termination of the facility's provider agreement if, in the
21 sole discretion of the Illinois Department, circumstances
22 affecting the health, safety, and welfare of the facility's
23 residents require those continued payments. The Illinois
24 Department may condition those continued payments on the
25 appointment of temporary management, sale of the facility to
26 new owners or operators, or other arrangements that the

1 Illinois Department determines best serve the needs of the
2 facility's residents.

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

15 The Illinois Department may collect interest on unpaid
16 civil money penalties.

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

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

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

26 (b) If a practitioner designates an alternate payee,

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

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

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

23 (1) the alternate payee is not complying with the
24 Department's policy or rules and regulations, or with
25 the terms and conditions prescribed by the Illinois
26 Department in its alternate payee registration

1 agreement; or

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

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

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

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

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

1 participation as a vendor in a medical assistance
2 program in another state that is of the same kind
3 as the program of medical assistance provided
4 under Article V of this Code; or

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

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

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

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

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

1 in a partnership which is an alternate payee:

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

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

12 (c) was an officer, or person owning, either
13 directly or indirectly, 5% or more of the shares of
14 stock or other evidences of ownership in a vendor
15 or alternate payee at the time such vendor or
16 alternate payee engaged in practices prohibited by
17 applicable federal or State law or regulation
18 relating to the Illinois Medical Assistance
19 Program; or

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

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

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

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

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

13 (1) State that payments are being withheld in
14 accordance with this subsection.

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

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

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

24 (5) Inform the provider or alternate payee that a
25 written request may be made to the Illinois Department
26 for full or partial release of withheld payments and

1 that such requests may be made at any time after the
2 Department first withholds such payments.

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

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

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

15 (3) The withholding of payments for a period of 3
16 years.

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

19 (K-5) The Illinois Department may withhold payments, in
20 whole or in part, to a provider or alternate payee upon
21 initiation of an audit, quality of care review, investigation
22 when there is a credible allegation of fraud, or the provider
23 or alternate payee demonstrating a clear failure to cooperate
24 with the Illinois Department such that the circumstances give
25 rise to the need for a withholding of payments. As used in this
26 subsection, "credible allegation" is defined to include an

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

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

24 (1) State that payments are being withheld in
25 accordance with this subsection.

26 (2) State that the withholding is for a temporary

1 period, as stated in paragraph (b) of this subsection,
2 and cite the circumstances under which withholding
3 will be terminated.

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

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

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

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

19 (1) The Illinois Department determines that there
20 is insufficient evidence of fraud, or the provider or
21 alternate payee demonstrates clear cooperation with
22 the Illinois Department, as determined by the Illinois
23 Department, such that the circumstances do not give
24 rise to the need for withholding of payments; or

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

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

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

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

23 (Source: P.A. 98-214, eff. 8-9-13; 98-550, eff. 8-27-13;
24 98-756, eff. 7-16-14; 99-180, eff. 7-29-15.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".