**Section 115.326 Monitors and Receiverships**

a) The Department shall engage the provider and initiate a review of a CILA agency's service agreement for funding if it determines that issues including, but not limited to, substantiated cases of abuse and neglect and quality review status warrant such action. The review will be initiated by the Director of DDD, or their designee, and will commence on a date as determined by the Director or designee, but no later than 30 days after the decision has been made to initiate a review. A review shall be based on, but not limited to, any of the following:

1) a disproportionate number or percentage of complaints regarding licensure issues;

2) a disproportionate number or percentage of substantiated cases of abuse, neglect or exploitation involving a CILA agency;

3) an apparent unnatural death of an individual served by a CILA agency;

4) any egregious or life-threatening abuse or neglect within a CILA agency; or

5) any other significant event as determined by the Department.

b) Section 115.326(a) does not limit the Department's authority to take necessary action through its own or other State staff.

c) When determined necessary by the Department, the Department shall inform the CILA agency that an independent monitor, who may be an individual or an employee or contractor with a business entity but shall not be staff of the Department or any other State agency, has been assigned to the CILA agency. Instead of, or in addition to, requesting an independent monitor, the Department may petition the circuit court for appointment of an independent receiver, who shall not be staff of the Department or any other State agency.

1) Assigned Independent Monitor

A) If other action, such as re-locating individuals to another CILA agency, is not indicated, the Department may assign an independent monitor to the CILA agency when any of the following conditions exist:

i) The CILA agency is operating without a license. The Department shall establish a schedule for closing the CILA agency and the monitor shall work with the CILA provider to transition the individuals.

ii) The Department has suspended, revoked, or refused to renew the existing license of the CILA agency. The Department shall establish a schedule for closing the CILA agency and the monitor shall work with the provider to transition the individuals.

iii) The Department has issued a notice to terminate or not renew its provider agreement with the CILA agency.

iv) The CILA agency is closing or has informed the Department that it intends to close and adequate arrangements for transition of individuals have not been made at least 30 days prior to closure.

v) The Department determines that an emergency exists and the CILA agency is unwilling or unable to remedy the emergency. As used in this subsection, "emergency" means a threat to the health, safety, or welfare of individuals.

vi) The Department, with the concurrence of HFS, terminates the CILA provider's participation in the federal reimbursement program under Title XIX (Medicaid) of the Social Security Act (42 U.S.C. 7).

B) The Department shall ensure that the assigned monitor meets the following minimum requirements:

i) Is able to travel to various locations throughout Illinois in order to conduct on-site visits (see Section 115.326(c)(1)(C)(i));

ii) Has an understanding of the needs of individuals with developmental disabilities, as evidenced by no less than two years of full-time cumulative experience in working with individuals with developmental disabilities in programs such as developmental training, residential services, or advocacy;

iii) Has a clear and thorough understanding of the applicable licensure or certification standards which are the subject of the monitor's duties, as evidenced in a personal interview of the candidate;

iv) Is not related to the owners/operators of the involved CILA agency either through blood, marriage, or common ownership of real or personal property, except ownership of stock that is traded on a stock exchange;

v) Is certified as a QIDP or provides evidence of education and experience equivalent to or greater than that of a QIDP; and

vi) Does not have any other conflicting professional relationship with the CILA agency or an ISC agency and is not employed by or contracted with any other entity currently providing direct services to individuals with developmental disabilities.

C) The assigned monitor shall be under the supervision of the Department and shall accomplish the following actions:

i) Conduct on-site visits to the agency as directed by the Department;

ii) Review all records pertinent to the condition for the monitor's placement under subsection (c)(1);

iii) Interview individuals, their guardians, and with the consent of the individual and/or guardian, family members regarding the services received and the needs of the individuals;

iv) Provide to the Department oral and written reports detailing the observed conditions of the agency and its operations; and

v) Be available as a witness for hearings involving the condition for placement as monitor as directed by the Department.

D) All communications, including but not limited to, data, memoranda, correspondence, records, and reports, shall be transmitted to and become the property of the Department. In addition, findings and results of the monitor's work performed under this Section shall be strictly confidential and shall not be released without written authorization from the Department, unless required by law or a court order.

E) The assignment as monitor may be terminated at any time by the Department with or without notice.

2) Section 115.326(c)(1) does not limit the Department's authority to take necessary action through its own or other State staff.

3) Assigned Independent Receiver

A) In the event the Department determines an emergency situation exists that threatens the health, safety, or welfare of individuals and the CILA agency is unwilling or unable to remedy the situation, the Department may petition the circuit court for appointment of an independent receiver. Through consultation with developmental disability professional organizations and advocacy groups, the Department shall maintain a list of independent receivers. Preference on the list shall be given to CILA agencies possessing extensive experience with individuals with developmental disabilities, and in financial and operations management of residential settings. To be placed on the list, the Department shall ensure the potential receiver meets the following minimum requirements:

i) Is able to travel to various locations throughout Illinois in order to conduct on-site visits;

ii) Has an understanding of the needs of individuals with developmental disabilities and the delivery of the highest possible quality of services, as evidenced by no less than two years of full-time cumulative experience in working with individuals with developmental disabilities in programs such as developmental training, residential services, or advocacy;

iii) Has a clear and thorough understanding and working knowledge of the applicable licensure or certification, as evidenced in a personal interview of the candidate;

iv) Is not related to the owners/operators of the involved agency either through blood, marriage, or common ownership of real or personal property, except ownership of stock that is traded on a stock exchange;

v) Is certified as a QIDP, or provides evidence of education and experience equivalent to or greater than that of a QIDP; and

vi) Does not have any other conflicting professional relationship with the CILA agency or an ISC agency and is not employed by or contracted with any other entity currently providing direct services to individuals with developmental disabilities.

B) Upon appointment of a receiver, the Department shall inform the individuals of all legal proceedings to date which concern the agency.

C) In the case of Department-ordered transition of individuals to alternative services and supports, the Department shall establish a schedule for closing the agency and the receiver shall work with the CILA provider to transition the individuals. The receiver may also:

i) Assist in providing for the orderly transition of any or all individuals served by the agency to other qualified agencies and/or make other provisions for their continued health and well-being;

ii) Assist in providing for transportation of individuals, records, and belongings if individuals are transitioned or discharged;

iii) Assist in locating alternative services and supports;

iv) Assist in preparing individuals for transition; and

v) Facilitate the participation of individuals and individuals' guardians/families in the selection of alternative services and supports.

4) Section 115.326(c)(3) does not limit the Department's authority to take necessary action through its own or other State staff.

(Source: Added at 47 Ill. Reg. 8485, effective May 31, 2023)