**Section 104.221 Issues at Hearings**

a) The sole issue at a hearing in which the basis for denial of an application pursuant to 89 Ill. Adm. Code 140.14(d) is that the vendor does not have a necessary license, certificate or authorization shall be whether the vendor has such a license, certificate or authorization.

b) The sole issue at a hearing in which the basis of the denial of an application is as set forth in 89 Ill. Adm. Code 140.14(b) shall be whether the vendor has demonstrated, according to the factors listed in that Section, in light of the prior activities, that he or she should be admitted to the Medical Assistance Program.

c) Effective July 1, 2012, the only issues at a hearing in which the basis of the denial of an application is as set forth in:

1) 89 Ill. Adm. Code 140.14(e)(1) shall be whether the applicant or any person with management responsibility for the applicant, an officer or member of the board of directors of the applicant, an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor applicant, an owner of a sole proprietorship applicant, a partner in a partnership applicant, or a technical or other advisor to the applicant has a debt owed to the Department and/or whether payment arrangements acceptable to the Department have been made by the applicant.

2) 89 Ill. Adm. Code 140.14(e)(2) shall be whether the applicant or any person with management responsibility for the applicant, an officer or member of the board of directors of the applicant, an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor applicant, an owner of a sole proprietorship applicant, a partner in a partnership vendor applicant, or a technical or other advisor to the applicant was a person with management responsibility, an officer or member of the board of directors of an applicant, an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor, an owner of a sole proprietorship, a partner in a partnership vendor, or a technical or other advisor to a vendor during the period of time when the conduct of that vendor resulted in a debt owed to the Department and/or whether payment arrangements acceptable to the Department have been made by that vendor.

3) 89 Ill. Adm. Code 140.14(e)(3) shall be whether the allegation of the use, transfer or lease of assets of any kind to the applicant from a current or prior vendor who has a debt owed to the Department is credible, whether payment arrangements acceptable to the Department have been made by that vendor or the vendor's alternate payee, and/or whether the applicant knows or should have known of the debt.

4) 89 Ill. Adm. Code 140.14(e)(4) shall be whether the allegation of a transfer of management responsibilities, or direct or indirect ownership, to an applicant from a current or prior vendor who has a debt owed to the Department is credible, whether payment arrangements acceptable to the Department have been made by that vendor or the vendor's alternate payee, and/or whether the applicant knows or should have known of the debt.

5) 89 Ill. Adm. Code 140.14(e)(5) shall be whether the allegation of the use, transfer or lease of assets of any kind to an applicant who is a spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, relative by marriage, or relative of a current or prior vendor who has a debt owed to the Department is credible and/or whether payment arrangements acceptable to the Department have been made.

6) 89 Ill. Adm. Code 140.14(e)(6) shall be whether the allegation that the applicant's previous affiliations with a provider of medical services that has an uncollected debt, a provider that has been or is subject to a payment suspension under a federal health care program, or a provider that has been previously excluded from participation in the Medical Assistance Program poses a risk of fraud, waste or abuse to the Department is credible.

d) The sole issue at a hearing in which the basis for termination is as set forth in 89 Ill. Adm. Code 140.16(a)(2) shall be whether the appropriate licensing, certifying or authorizing agency has determined that the vendor does not have a necessary license, certification or authorization.

e) The sole issue at a hearing requested by a previously suspended vendor that is being terminated pursuant to 89 Ill. Adm. Code 140.19(b) shall be whether the vendor has corrected the deficiencies on which the suspension was based.

f) At a hearing conducted pursuant to Subpart D of this Part, the sole relevant time with respect to the existence of the violations of the Department's requirements alleged in the notice shall be the date or dates in the notice.

g) The only issue at a hearing initiated pursuant to 89 Ill. Adm. Code 140.16(c) is whether the vendor is not in compliance with State income tax requirements, child support requirements of Article X of the Public Aid Code, or educational loans guaranteed by the Illinois Student Assistance Commission.

h) Effective July 1, 2012, the sole issue at a hearing requested by a person or entity with a debt due the State pursuant to Section 12-4.25(F-15)(3) of the Public Aid Code shall be whether the person or entity has failed to comply with judgment on which the debt is based.

i) The only issue at a hearing initiated pursuant to Section 104.205 and 89 Ill. Adm. Code 140.491(j) is whether the Department was in error when it denied a request for approval for payment of non-emergency transportation by means of ground ambulance service or granted a request for approval of non-emergency transportation by means of ground ambulance service at a level of service that entitles the Ground Ambulance Service Provider to a lower level of compensation than the Ground Ambulance Service Provider would have received as compensation for the level of service requested.

(Source: Expedited correction at 37 Ill. Reg. 16034, effective July 24, 2013)