

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

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

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

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

15 (a) Such vendor is not complying with the Department's
16 policy or rules and regulations, or with the terms and
17 conditions prescribed by the Illinois Department in its
18 vendor agreement, which document shall be developed by the
19 Department as a result of negotiations with each vendor
20 category, including physicians, hospitals, long term care
21 facilities, pharmacists, optometrists, podiatrists and
22 dentists setting forth the terms and conditions applicable
23 to the participation of each vendor group in the program;
24 or

25 (b) Such vendor has failed to keep or make available
26 for inspection, audit or copying, after receiving a written
27 request from the Illinois Department, such records
28 regarding payments claimed for providing services. This
29 section does not require vendors to make available patient
30 records of patients for whom services are not reimbursed
31 under this Code; or

32 (c) Such vendor has failed to furnish any information

1 requested by the Department regarding payments for
2 providing goods or services; or

3 (d) Such vendor has knowingly made, or caused to be
4 made, any false statement or representation of a material
5 fact in connection with the administration of the medical
6 assistance program; or

7 (e) Such vendor has furnished goods or services to a
8 recipient which are (1) in excess of his or her needs, (2)
9 harmful to the recipient, or (3) of grossly inferior
10 quality, all of such determinations to be based upon
11 competent medical judgment and evaluations; or

12 (f) The vendor; a person with management
13 responsibility for a vendor; an officer or person owning,
14 either directly or indirectly, 5% or more of the shares of
15 stock or other evidences of ownership in a corporate
16 vendor; an owner of a sole proprietorship which is a
17 vendor; or a partner in a partnership which is a vendor,
18 either:

19 (1) was previously terminated from participation
20 in the Illinois medical assistance program, or was
21 terminated from participation in a medical assistance
22 program in another state that is of the same kind as
23 the program of medical assistance provided under
24 Article V of this Code; or

25 (2) was a person with management responsibility
26 for a vendor previously terminated from participation
27 in the Illinois medical assistance program, or
28 terminated from participation in a medical assistance
29 program in another state that is of the same kind as
30 the program of medical assistance provided under
31 Article V of this Code, during the time of conduct
32 which was the basis for that vendor's termination; or

33 (3) was an officer, or person owning, either
34 directly or indirectly, 5% or more of the shares of
35 stock or other evidences of ownership in a corporate
36 vendor previously terminated from participation in the

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

7 (4) was an owner of a sole proprietorship or
8 partner of a partnership previously terminated from
9 participation in the Illinois medical assistance
10 program, or terminated from participation in a medical
11 assistance program in another state that is of the same
12 kind as the program of medical assistance provided
13 under Article V of this Code, during the time of
14 conduct which was the basis for that vendor's
15 termination; or

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

23 (1) has engaged in practices prohibited by
24 applicable federal or State law or regulation relating
25 to the medical assistance program; or

26 (2) was a person with management responsibility
27 for a vendor at the time that such vendor engaged in
28 practices prohibited by applicable federal or State
29 law or regulation relating to the medical assistance
30 program; or

31 (3) was an officer, or person owning, either
32 directly or indirectly, 5% or more of the shares of
33 stock or other evidences of ownership in a vendor at
34 the time such vendor engaged in practices prohibited by
35 applicable federal or State law or regulation relating
36 to the medical assistance program; or

1 (4) was an owner of a sole proprietorship or
2 partner of a partnership which was a vendor at the time
3 such vendor engaged in practices prohibited by
4 applicable federal or State law or regulation relating
5 to the medical assistance program; or

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

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

30 (1) The medical assistance program under Article V of
31 this Code.

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

35 (3) The Medicare program under Title XVIII of the
36 Social Security Act.

1 (4) The provision of health care services.

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

16 (1) Murder.

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

18 (B) The Illinois Department shall deny, suspend or
19 terminate the eligibility of any person, firm, corporation,
20 association, agency, institution or other legal entity to
21 participate as a vendor of goods or services to recipients
22 under the medical assistance program under Article V:

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

24 (2) within 30 days of the date when such vendor's
25 professional license, certification or other authorization
26 has been refused renewal or has been revoked, suspended or
27 otherwise terminated; or

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

30 (C) Upon termination of a vendor of goods or services from
31 participation in the medical assistance program authorized by
32 this Article, a person with management responsibility for such
33 vendor during the time of any conduct which served as the basis
34 for that vendor's termination is barred from participation in
35 the medical assistance program.

36 Upon termination of a corporate vendor, the officers and

1 persons owning, directly or indirectly, 5% or more of the
2 shares of stock or other evidences of ownership in the vendor
3 during the time of any conduct which served as the basis for
4 that vendor's termination are barred from participation in the
5 medical assistance program. A person who owns, directly or
6 indirectly, 5% or more of the shares of stock or other
7 evidences of ownership in a terminated corporate vendor may not
8 transfer his or her ownership interest in that vendor to his or
9 her spouse, child, brother, sister, parent, grandparent,
10 grandchild, uncle, aunt, niece, nephew, cousin, or relative by
11 marriage.

12 Upon termination of a sole proprietorship or partnership,
13 the owner or partners during the time of any conduct which
14 served as the basis for that vendor's termination are barred
15 from participation in the medical assistance program. The owner
16 of a terminated vendor that is a sole proprietorship, and a
17 partner in a terminated vendor that is a partnership, may not
18 transfer his or her ownership or partnership interest in that
19 vendor to his or her spouse, child, brother, sister, parent,
20 grandparent, grandchild, uncle, aunt, niece, nephew, cousin,
21 or relative by marriage.

22 Rules adopted by the Illinois Department to implement these
23 provisions shall specifically include a definition of the term
24 "management responsibility" as used in this Section. Such
25 definition shall include, but not be limited to, typical job
26 titles, and duties and descriptions which will be considered as
27 within the definition of individuals with management
28 responsibility for a provider.

29 (D) If a vendor has been suspended from the medical
30 assistance program under Article V of the Code, the Director
31 may require that such vendor correct any deficiencies which
32 served as the basis for the suspension. The Director shall
33 specify in the suspension order a specific period of time,
34 which shall not exceed one year from the date of the order,
35 during which a suspended vendor shall not be eligible to
36 participate. At the conclusion of the period of suspension the

1 Director shall reinstate such vendor, unless he finds that such
2 vendor has not corrected deficiencies upon which the suspension
3 was based.

4 If a vendor has been terminated from the medical assistance
5 program under Article V, such vendor shall be barred from
6 participation for at least one year, except that if a vendor
7 has been terminated based on a conviction of a violation of
8 Article VIIIA or a conviction of a felony based on fraud or a
9 willful misrepresentation related to (i) the medical
10 assistance program under Article V, (ii) a medical assistance
11 program in another state that is of the kind provided under
12 Article V, (iii) the Medicare program under Title XVIII of the
13 Social Security Act, or (iv) the provision of health care
14 services, then the vendor shall be barred from participation
15 for 5 years or for the length of the vendor's sentence for that
16 conviction, whichever is longer. At the end of one year a
17 vendor who has been terminated may apply for reinstatement to
18 the program. Upon proper application to be reinstated such
19 vendor may be deemed eligible by the Director providing that
20 such vendor meets the requirements for eligibility under this
21 Code. If such vendor is deemed not eligible for reinstatement,
22 he shall be barred from again applying for reinstatement for
23 one year from the date his application for reinstatement is
24 denied.

25 A vendor whose termination from participation in the
26 Illinois medical assistance program under Article V was based
27 solely on an action by a governmental entity other than the
28 Illinois Department may, upon reinstatement by that
29 governmental entity or upon reversal of the termination, apply
30 for rescission of the termination from participation in the
31 Illinois medical assistance program. Upon proper application
32 for rescission, the vendor may be deemed eligible by the
33 Director if the vendor meets the requirements for eligibility
34 under this Code.

35 If a vendor has been terminated and reinstated to the
36 medical assistance program under Article V and the vendor is

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

24 If the Illinois Department ~~of Public Aid~~ establishes
25 through an administrative hearing that the overpayments
26 resulted from the vendor or alternate payee willfully making,
27 or causing to be made, a false statement or misrepresentation
28 of a material fact in connection with billings and payments
29 under the medical assistance program under Article V, the
30 Department may recover interest on the amount of the
31 overpayments at the rate of 5% per annum. For purposes of this
32 paragraph, "willfully" means that a person makes a statement or
33 representation with actual knowledge that it was false, or
34 makes a statement or representation with knowledge of facts or
35 information that would cause one to be aware that the statement
36 or representation was false when made.

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

18 (F-5) The Illinois Department may temporarily withhold
19 payments to a vendor or alternate payee if any of the following
20 individuals have been indicted or otherwise charged under a law
21 of the United States or this or any other state with a felony
22 offense that is based on alleged fraud or willful
23 misrepresentation on the part of the individual related to (i)
24 the medical assistance program under Article V of this Code,
25 (ii) a medical assistance program provided in another state
26 which is of the kind provided under Article V of this Code,
27 (iii) the Medicare program under Title XVIII of the Social
28 Security Act, or (iv) the provision of health care services:

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

33 (2) If the vendor is a sole proprietorship: the owner
34 of the sole proprietorship.

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

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

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

18 (G) The provisions of the Administrative Review Law, as now
19 or hereafter amended, and the rules adopted pursuant thereto,
20 shall apply to and govern all proceedings for the judicial
21 review of final administrative decisions of the Illinois
22 Department under this Section. The term "administrative
23 decision" is defined as in Section 3-101 of the Code of Civil
24 Procedure.

25 (G-5) Non-emergency transportation.

26 (1) Notwithstanding any other provision in this
27 Section, for non-emergency transportation vendors, the
28 Department may terminate the vendor from participation in
29 the medical assistance program prior to an evidentiary
30 hearing but after reasonable notice and opportunity to
31 respond as established by the Department by rule.

32 (2) Vendors of non-emergency medical transportation
33 services, as defined by the Department by rule, shall
34 submit to a fingerprint-based criminal background check on
35 current and future information available in the State
36 system and current information available through the

1 Federal Bureau of Investigation's system by submitting all
2 necessary fees and information in the form and manner
3 prescribed by the Department of State Police. The following
4 individuals shall be subject to the check:

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

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

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

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

13 Each such vendor shall be responsible for payment of
14 the cost of the criminal background check.

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

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

24 (A) the Department has initiated a notice of
25 termination of the vendor from participation in the
26 medical assistance program; or

27 (B) the Department has issued notification of its
28 withholding of payments pursuant to subsection (F-5)
29 of this Section; or

30 (C) the Department has issued a notification of its
31 withholding of payments due to reliable evidence of
32 fraud or willful misrepresentation pending
33 investigation.

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

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

7 (1) Termination of the provider agreement.

8 (2) Temporary management.

9 (3) Denial of payment for new admissions.

10 (4) Civil money penalties.

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

13 (6) State monitoring.

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

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

27 Except in the case of a facility that has a right to a
28 hearing on the finding of noncompliance before an agency of the
29 federal government, a facility may request a hearing before a
30 State agency on any finding of noncompliance within 60 days
31 after the notice of the intent to impose a remedy. Except in
32 the case of civil money penalties, a request for a hearing
33 shall not delay imposition of the penalty. The choice of
34 remedies is not appealable at a hearing. The level of
35 noncompliance may be challenged only in the case of a civil
36 money penalty. The Illinois Department shall provide by rule

1 for the State agency that will conduct the evidentiary
2 hearings.

3 The Illinois Department may collect interest on unpaid
4 civil money penalties.

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

7 (J) The Illinois Department, by rule, may permit individual
8 practitioners to designate that Department payments that may be
9 due the practitioner be made to an alternate payee or alternate
10 payees.

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

14 (b) If a practitioner designates an alternate payee,
15 the alternate payee and practitioner shall be jointly and
16 severally liable to the Department for payments made to the
17 alternate payee. Pursuant to subsection (E) of this
18 Section, any Department action to recover money or
19 overpayments from an alternate payee shall be subject to an
20 administrative hearing.

21 (c) Registration as an alternate payee or alternate
22 payees in the Illinois Medical Assistance Program shall be
23 conditional. At any time, the Illinois Department may deny
24 or cancel any alternate payee's registration in the
25 Illinois Medical Assistance Program without cause. Any
26 such denial or cancellation is not subject to an
27 administrative hearing.

28 (d) The Illinois Department may seek a revocation of
29 any alternate payee, and all owners, officers, and
30 individuals with management responsibility for such
31 alternate payee shall be permanently prohibited from
32 participating as an owner, an officer, or an individual
33 with management responsibility with an alternate payee in
34 the Illinois Medical Assistance Program, if after
35 reasonable notice and opportunity for a hearing the
36 Illinois Department finds that:

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

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

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

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

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

25 (a) was previously terminated from
26 participation as a vendor in the Illinois Medical
27 Assistance Program, or was previously revoked as
28 an alternate payee in the Illinois Medical
29 Assistance Program, or was terminated from
30 participation as a vendor in a medical assistance
31 program in another state that is of the same kind
32 as the program of medical assistance provided
33 under Article V of this Code; or

34 (b) was a person with management
35 responsibility for a vendor previously terminated
36 from participation as a vendor in the Illinois

1 Medical Assistance Program, or was previously
2 revoked as an alternate payee in the Illinois
3 Medical Assistance Program, or was terminated 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 or alternate payee's revocation; or

10 (c) was an officer, or person owning, either
11 directly or indirectly, 5% or more of the shares of
12 stock or other evidences of ownership in a
13 corporate vendor previously terminated from
14 participation as a vendor in the Illinois Medical
15 Assistance Program, or was previously revoked as
16 an alternate payee in the Illinois Medical
17 Assistance Program, or was terminated from
18 participation as a vendor in a medical assistance
19 program in another state that is of the same kind
20 as the program of medical assistance provided
21 under Article V of this Code, during the time of
22 conduct which was the basis for that vendor's
23 termination; or

24 (d) was an owner of a sole proprietorship or
25 partner in a partnership previously terminated
26 from participation as a vendor in the Illinois
27 Medical Assistance Program, or was previously
28 revoked as an alternate payee in the Illinois
29 Medical Assistance Program, or was terminated from
30 participation as a vendor in a medical assistance
31 program in another state that is of the same kind
32 as the program of medical assistance provided
33 under Article V of this Code, during the time of
34 conduct which was the basis for that vendor's
35 termination or alternate payee's revocation; or

36 (6) the alternate payee, a person with management

1 responsibility for an alternate payee, an officer or
2 person owning, either directly or indirectly, 5% or
3 more of the shares of stock or other evidences of
4 ownership in a corporate alternate payee, or a partner
5 in a partnership which is an alternate payee:

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

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

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

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

31 (7) the direct or indirect ownership of the vendor
32 or alternate payee (including the ownership of a vendor
33 or alternate payee that is a partner's interest in a
34 vendor or alternate payee, or ownership of 5% or more
35 of the shares of stock or other evidences of ownership
36 in a corporate vendor or alternate payee) has been

1 transferred by an individual who is terminated or
2 barred from participating as a vendor or is prohibited
3 or revoked as an alternate payee to the individual's
4 spouse, child, brother, sister, parent, grandparent,
5 grandchild, uncle, aunt, niece, nephew, cousin, or
6 relative by marriage.

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

27 (a) The Illinois Department must send notice of its
28 withholding of program payments within 5 days of taking
29 such action. The notice must set forth the general
30 allegations as to the nature of the withholding action, but
31 need not disclose any specific information concerning its
32 ongoing investigation. The notice must do all of the
33 following:

34 (1) State that payments are being withheld in
35 accordance with this subsection.

36 (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 Medicaid claims withholding is effective.

6 (4) Inform the provider or alternate payee of the
7 right to submit written evidence for reconsideration
8 of the withholding by the Illinois Department.

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

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

17 (1) The Illinois Department or the prosecuting
18 authorities determine that there is insufficient
19 evidence of fraud or willful misrepresentation by the
20 provider or alternate payee.

21 (2) Legal proceedings related to the provider's or
22 alternate payee's alleged fraud, willful
23 misrepresentation, violations of this Act, or
24 violations of the Illinois Department's administrative
25 rules are completed.

26 (3) The withholding of payments for a period of 3
27 years.

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

30 (Source: P.A. 94-265, eff. 1-1-06; revised 12-15-05.)

31 Section 99. Effective date. This Act takes effect upon
32 becoming law.