

SB3092



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB3092

Introduced 1/20/2006, by Sen. Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

305 ILCS 5/12-4.25

from Ch. 23, par. 12-4.25

Amends the Illinois Public Aid Code. Provides that the Department of Healthcare and Family Services may withhold payments, in whole or in part, to a Medical Assistance provider or alternate payee upon receipt of reliable evidence that the circumstances giving rise to the need for a withholding of payments may involve fraud or willful misrepresentation under the Illinois Medical Assistance program. Sets forth procedures for such withholding of payments. Effective immediately.

LRB094 17963 DRJ 53266 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 (B) The Illinois Department shall 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:

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

8 (2) within 30 days of the date when such vendor's
9 professional license, certification or other authorization
10 has been refused renewal or has been revoked, suspended or
11 otherwise terminated; or

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

14 (C) Upon termination of a vendor of goods or services from
15 participation in the medical assistance program authorized by
16 this Article, a person with management responsibility for such
17 vendor during the time of any conduct which served as the basis
18 for that vendor's termination is barred from participation in
19 the medical assistance program.

20 Upon termination of a corporate vendor, the officers and
21 persons owning, directly or indirectly, 5% or more of the
22 shares of stock or other evidences of ownership in the vendor
23 during the time of any conduct which served as the basis for
24 that vendor's termination are barred from participation in the
25 medical assistance program. A person who owns, directly or
26 indirectly, 5% or more of the shares of stock or other
27 evidences of ownership in a terminated corporate vendor may not
28 transfer his or her ownership interest in that vendor to his or
29 her spouse, child, brother, sister, parent, grandparent,
30 grandchild, uncle, aunt, niece, nephew, cousin, or relative by
31 marriage.

32 Upon termination of a sole proprietorship or partnership,
33 the owner or partners during the time of any conduct which
34 served as the basis for that vendor's termination are barred
35 from participation in the medical assistance program. The owner
36 of a terminated vendor that is a sole proprietorship, and a

1 partner in a terminated vendor that is a partnership, may not
2 transfer his or her ownership or partnership interest in that
3 vendor to his or her spouse, child, brother, sister, parent,
4 grandparent, grandchild, uncle, aunt, niece, nephew, cousin,
5 or relative by marriage.

6 Rules adopted by the Illinois Department to implement these
7 provisions shall specifically include a definition of the term
8 "management responsibility" as used in this Section. Such
9 definition shall include, but not be limited to, typical job
10 titles, and duties and descriptions which will be considered as
11 within the definition of individuals with management
12 responsibility for a provider.

13 (D) If a vendor has been suspended from the medical
14 assistance program under Article V of the Code, the Director
15 may require that such vendor correct any deficiencies which
16 served as the basis for the suspension. The Director shall
17 specify in the suspension order a specific period of time,
18 which shall not exceed one year from the date of the order,
19 during which a suspended vendor shall not be eligible to
20 participate. At the conclusion of the period of suspension the
21 Director shall reinstate such vendor, unless he finds that such
22 vendor has not corrected deficiencies upon which the suspension
23 was based.

24 If a vendor has been terminated from the medical assistance
25 program under Article V, such vendor shall be barred from
26 participation for at least one year, except that if a vendor
27 has been terminated based on a conviction of a violation of
28 Article VIII A or a conviction of a felony based on fraud or a
29 willful misrepresentation related to (i) the medical
30 assistance program under Article V, (ii) a medical assistance
31 program in another state that is of the kind provided under
32 Article V, (iii) the Medicare program under Title XVIII of the
33 Social Security Act, or (iv) the provision of health care
34 services, then the vendor shall be barred from participation
35 for 5 years or for the length of the vendor's sentence for that
36 conviction, whichever is longer. At the end of one year a

1 vendor who has been terminated may apply for reinstatement to
2 the program. Upon proper application to be reinstated such
3 vendor may be deemed eligible by the Director providing that
4 such vendor meets the requirements for eligibility under this
5 Code. If such vendor is deemed not eligible for reinstatement,
6 he shall be barred from again applying for reinstatement for
7 one year from the date his application for reinstatement is
8 denied.

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

19 If a vendor has been terminated and reinstated to the
20 medical assistance program under Article V and the vendor is
21 terminated a second or subsequent time from the medical
22 assistance program, the vendor shall be barred from
23 participation for at least 2 years, except that if a vendor has
24 been terminated a second time based on a conviction of a
25 violation of Article VIIIA or a conviction of a felony based on
26 fraud or a willful misrepresentation related to (i) the medical
27 assistance program under Article V, (ii) a medical assistance
28 program in another state that is of the kind provided under
29 Article V, (iii) the Medicare program under Title XVIII of the
30 Social Security Act, or (iv) the provision of health care
31 services, then the vendor shall be barred from participation
32 for life. At the end of 2 years, a vendor who has been
33 terminated may apply for reinstatement to the program. Upon
34 application to be reinstated, the vendor may be deemed eligible
35 if the vendor meets the requirements for eligibility under this
36 Code. If the vendor is deemed not eligible for reinstatement,

1 the vendor shall be barred from again applying for
2 reinstatement for 2 years from the date the vendor's
3 application for reinstatement is denied.

4 (E) The Illinois Department may recover money improperly or
5 erroneously paid, or overpayments, either by setoff, crediting
6 against future billings or by requiring direct repayment to the
7 Illinois Department.

8 If the Illinois Department ~~of Public Aid~~ establishes
9 through an administrative hearing that the overpayments
10 resulted from the vendor or alternate payee willfully making,
11 or causing to be made, a false statement or misrepresentation
12 of a material fact in connection with billings and payments
13 under the medical assistance program under Article V, the
14 Department may recover interest on the amount of the
15 overpayments at the rate of 5% per annum. For purposes of this
16 paragraph, "willfully" means that a person makes a statement or
17 representation with actual knowledge that it was false, or
18 makes a statement or representation with knowledge of facts or
19 information that would cause one to be aware that the statement
20 or representation was false when made.

21 (F) The Illinois Department may withhold payments to any
22 vendor or alternate payee during the pendency of any proceeding
23 under this Section. The Illinois Department shall state by rule
24 with as much specificity as practicable the conditions under
25 which payments will not be withheld during the pendency of any
26 proceeding under this Section. Payments may be denied for bills
27 submitted with service dates occurring during the pendency of a
28 proceeding where the final administrative decision is to
29 terminate eligibility to participate in the medical assistance
30 program. The Illinois Department shall state by rule with as
31 much specificity as practicable the conditions under which
32 payments will not be denied for such bills. The Illinois
33 Department ~~of Public Aid~~ shall state by rule a process and
34 criteria by which a vendor or alternate payee may request full
35 or partial release of payments withheld under this subsection.
36 The Department must complete a proceeding under this Section in

1 a timely manner.

2 (F-5) The Illinois Department may temporarily withhold
3 payments to a vendor or alternate payee if any of the following
4 individuals have been indicted or otherwise charged under a law
5 of the United States or this or any other state with a felony
6 offense that is based on alleged fraud or willful
7 misrepresentation on the part of the individual related to (i)
8 the medical assistance program under Article V of this Code,
9 (ii) a medical assistance program provided in another state
10 which is of the kind provided under Article V of this Code,
11 (iii) the Medicare program under Title XVIII of the Social
12 Security Act, or (iv) the provision of health care services:

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

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

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

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

26 If the Illinois Department withholds payments to a vendor
27 or alternate payee under this subsection, the Department shall
28 not release those payments to the vendor or alternate payee
29 while any criminal proceeding related to the indictment or
30 charge is pending unless the Department determines that there
31 is good cause to release the payments before completion of the
32 proceeding. If the indictment or charge results in the
33 individual's conviction, the Illinois Department shall retain
34 all withheld payments, which shall be considered forfeited to
35 the Department. If the indictment or charge does not result in
36 the individual's conviction, the Illinois Department shall

1 release to the vendor or alternate payee all withheld payments.

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

9 (G-5) Non-emergency transportation.

10 (1) Notwithstanding any other provision in this
11 Section, for non-emergency transportation vendors, the
12 Department may terminate the vendor from participation in
13 the medical assistance program prior to an evidentiary
14 hearing but after reasonable notice and opportunity to
15 respond as established by the Department by rule.

16 (2) Vendors of non-emergency medical transportation
17 services, as defined by the Department by rule, shall
18 submit to a fingerprint-based criminal background check on
19 current and future information available in the State
20 system and current information available through the
21 Federal Bureau of Investigation's system by submitting all
22 necessary fees and information in the form and manner
23 prescribed by the Department of State Police. The following
24 individuals shall be subject to the check:

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

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

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

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

33 Each such vendor shall be responsible for payment of
34 the cost of the criminal background check.

35 (3) Vendors of non-emergency medical transportation
36 services may be required to post a surety bond. The

1 Department shall establish, by rule, the criteria and
2 requirements for determining when a surety bond must be
3 posted and the value of the bond.

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

8 (A) the Department has initiated a notice of
9 termination of the vendor from participation in the
10 medical assistance program; or

11 (B) the Department has issued notification of its
12 withholding of payments pursuant to subsection (F-5)
13 of this Section; or

14 (C) the Department has issued a notification of its
15 withholding of payments due to reliable evidence of
16 fraud or willful misrepresentation pending
17 investigation.

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

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

27 (1) Termination of the provider agreement.

28 (2) Temporary management.

29 (3) Denial of payment for new admissions.

30 (4) Civil money penalties.

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

33 (6) State monitoring.

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

36 The Illinois Department shall by rule establish criteria

1 governing continued payments to a nursing facility subsequent
2 to termination of the facility's provider agreement if, in the
3 sole discretion of the Illinois Department, circumstances
4 affecting the health, safety, and welfare of the facility's
5 residents require those continued payments. The Illinois
6 Department may condition those continued payments on the
7 appointment of temporary management, sale of the facility to
8 new owners or operators, or other arrangements that the
9 Illinois Department determines best serve the needs of the
10 facility's residents.

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

23 The Illinois Department may collect interest on unpaid
24 civil money penalties.

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

27 (J) The Illinois Department, by rule, may permit individual
28 practitioners to designate that Department payments that may be
29 due the practitioner be made to an alternate payee or alternate
30 payees.

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

34 (b) If a practitioner designates an alternate payee,
35 the alternate payee and practitioner shall be jointly and
36 severally liable to the Department for payments made to the

1 alternate payee. Pursuant to subsection (E) of this
2 Section, any Department action to recover money or
3 overpayments from an alternate payee shall be subject to an
4 administrative hearing.

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

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

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

26 (2) the alternate payee has failed to keep or make
27 available for inspection, audit, or copying, after
28 receiving a written request from the Illinois
29 Department, such records regarding payments claimed as
30 an alternate payee; or

31 (3) the alternate payee has failed to furnish any
32 information requested by the Illinois Department
33 regarding payments claimed as an alternate payee; or

34 (4) the alternate payee has knowingly made, or
35 caused to be made, any false statement or
36 representation of a material fact in connection with

1 the administration of the Illinois Medical Assistance
2 Program; or

3 (5) the alternate payee, a person with management
4 responsibility for an alternate payee, an officer or
5 person owning, either directly or indirectly, 5% or
6 more of the shares of stock or other evidences of
7 ownership in a corporate alternate payee, or a partner
8 in a partnership which is an alternate payee:

9 (a) was previously terminated from
10 participation as a vendor in the Illinois Medical
11 Assistance Program, or was previously revoked as
12 an alternate payee in the Illinois Medical
13 Assistance Program, or was terminated from
14 participation as a vendor in a medical assistance
15 program in another state that is of the same kind
16 as the program of medical assistance provided
17 under Article V of this Code; or

18 (b) was a person with management
19 responsibility for a vendor previously terminated
20 from participation as a vendor in the Illinois
21 Medical Assistance Program, or was previously
22 revoked as an alternate payee in the Illinois
23 Medical Assistance Program, or was terminated from
24 participation as a vendor in a medical assistance
25 program in another state that is of the same kind
26 as the program of medical assistance provided
27 under Article V of this Code, during the time of
28 conduct which was the basis for that vendor's
29 termination or alternate payee's revocation; or

30 (c) was an officer, or person owning, either
31 directly or indirectly, 5% or more of the shares of
32 stock or other evidences of ownership in a
33 corporate vendor previously terminated from
34 participation as a vendor in the Illinois Medical
35 Assistance Program, or was previously revoked as
36 an alternate payee in the Illinois Medical

1 Assistance Program, or was terminated 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; or

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

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

26 (a) has engaged in conduct prohibited by
27 applicable federal or State law or regulation
28 relating to the Illinois Medical Assistance
29 Program; or

30 (b) was a person with management
31 responsibility for a vendor or alternate payee at
32 the time that the vendor or alternate payee engaged
33 in practices prohibited by applicable federal or
34 State law or regulation relating to the Illinois
35 Medical Assistance Program; or

36 (c) was an officer, or person owning, either

1 directly or indirectly, 5% or more of the shares of
2 stock or other evidences of ownership in a vendor
3 or alternate payee at the time such vendor or
4 alternate payee engaged in practices prohibited by
5 applicable federal or State law or regulation
6 relating to the Illinois Medical Assistance
7 Program; or

8 (d) was an owner of a sole proprietorship or
9 partner in a partnership which was a vendor or
10 alternate payee at the time such vendor or
11 alternate payee engaged in practices prohibited by
12 applicable federal or State law or regulation
13 relating to the Illinois Medical Assistance
14 Program; or

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

27 (K) The Illinois Department of Healthcare and Family
28 Services may withhold payments, in whole or in part, to a
29 provider or alternate payee upon receipt of reliable evidence
30 that the circumstances giving rise to the need for a
31 withholding of payments may involve fraud or willful
32 misrepresentation under the Illinois Medical Assistance
33 program. The Department may withhold payments without first
34 notifying the provider or alternate payee of its intention to
35 withhold such payments.

36 (a) The Illinois Department must send notice of its

1 withholding of program payments within 5 days of taking
2 such action. The notice must set forth the general
3 allegations as to the nature of the withholding action, but
4 need not disclose any specific information concerning its
5 ongoing investigation. The notice must do all of the
6 following:

7 (1) State that payments are being withheld in
8 accordance with this subsection.

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

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

15 (4) Inform the provider or alternate payee of the
16 right to submit written evidence for consideration by
17 the Illinois Department.

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

21 (1) The Illinois Department or the prosecuting
22 authorities determine that there is insufficient
23 evidence of fraud or willful misrepresentation by the
24 provider or alternate payee.

25 (2) Legal proceedings related to the provider's or
26 alternate payee's alleged fraud, willful
27 misrepresentation, violations of this Act, or
28 violations of the Illinois Department's administrative
29 rules are completed.

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

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

33 Section 99. Effective date. This Act takes effect upon
34 becoming law.