



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3354

Introduced 2/7/2012, by Sen. Kwame Raoul

SYNOPSIS AS INTRODUCED:

305 ILCS 5/12-4.25

from Ch. 23, par. 12-4.25

Amends the Illinois Public Aid Code. Sets forth certain circumstances under which the Department of Healthcare and Family Services may deny the eligibility of any person, firm, corporation, association, agency, institution, or other legal entity to participate as a vendor of goods or services to Medicaid recipients because of an outstanding debt owed to the Department. Sets forth the conditions under which a debtor-vendor may enroll or participate in the medical assistance program. Contains provisions concerning the recovery of interest on overpayments; the withholding of payments to vendors who are not in compliance with State and federal regulations; the recovery of a debt owed by a vendor or alternate payee; the withholding of payments to vendors upon initiation of an audit; and other matters.

LRB097 14548 KTG 62162 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, exclude, or
10 terminate the eligibility of any person, firm, corporation,
11 association, agency, institution or other legal entity to
12 participate as a vendor of goods or services to recipients
13 under the medical assistance program under Article V, if after
14 reasonable notice and opportunity for a hearing the Illinois
15 Department finds:

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

1 to the participation of each vendor group in the program;

2 or

3 (b) Such vendor has failed to keep or make available
4 for inspection, audit or copying, after receiving a written
5 request from the Illinois Department, such records
6 regarding payments claimed for providing services. This
7 section does not require vendors to make available patient
8 records of patients for whom services are not reimbursed
9 under this Code; or

10 (c) Such vendor has failed to furnish any information
11 requested by the Department regarding payments for
12 providing goods or services; or

13 (d) Such vendor has knowingly made, or caused to be
14 made, any false statement or representation of a material
15 fact in connection with the administration of the medical
16 assistance program; or

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

22 (f) 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
26 vendor; an owner of a sole proprietorship which is a

1 vendor; or a partner in a partnership which is a vendor,
2 either:

3 (1) was previously terminated or excluded from
4 participation in the Illinois medical assistance
5 program, or was terminated or excluded from
6 participation in a medical assistance program in
7 another state that is of the same kind as the program
8 of medical assistance provided under Article V of this
9 Code; or

10 (2) was a person with management responsibility
11 for a vendor previously terminated or excluded from
12 participation in the Illinois medical assistance
13 program, or terminated or excluded from participation
14 in a medical assistance program in another state that
15 is of the same kind as the program of medical
16 assistance provided under Article V of this Code,
17 during the time of conduct which was the basis for that
18 vendor's termination or exclusion; or

19 (3) 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 corporate
22 vendor previously terminated or excluded from
23 participation in the Illinois medical assistance
24 program, or terminated or excluded from participation
25 in a medical assistance program in another state that
26 is of the same kind as the program of medical

1 assistance provided under Article V of this Code,
2 during the time of conduct which was the basis for that
3 vendor's termination or exclusion; or

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

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

20 (1) has engaged in practices prohibited by
21 applicable federal or State law or regulation relating
22 to the medical assistance program; or

23 (2) was a person with management responsibility
24 for a vendor at the time that such vendor engaged in
25 practices prohibited by applicable federal or State
26 law or regulation relating to the medical assistance

1 program; or

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

8 (4) was an owner of a sole proprietorship or
9 partner of a partnership which was a vendor at the time
10 such vendor engaged in practices prohibited by
11 applicable federal or State law or regulation relating
12 to the medical assistance program; or

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

23 (A-5) The Illinois Department may deny, suspend, ~~or~~
24 terminate, or exclude the eligibility of any person, firm,
25 corporation, association, agency, institution, or other legal
26 entity to participate as a vendor of goods or services to

1 recipients under the medical assistance program under Article V
2 if, after reasonable notice and opportunity for a hearing, the
3 Illinois Department finds that the vendor; a person with
4 management responsibility for a vendor; an officer or person
5 owning, either directly or indirectly, 5% or more of the shares
6 of stock or other evidences of ownership in a corporate vendor;
7 an owner of a sole proprietorship that is a vendor; or a
8 partner in a partnership that is a vendor has been convicted of
9 a felony offense based on fraud or willful misrepresentation
10 related to any of the following:

11 (1) The medical assistance program under Article V of
12 this Code.

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

16 (3) The Medicare program under Title XVIII of the
17 Social Security Act.

18 (4) The provision of health care services.

19 (A-10) The Illinois Department may deny, suspend, ~~or~~
20 terminate, or exclude the eligibility of any person, firm,
21 corporation, association, agency, institution, or other legal
22 entity to participate as a vendor of goods or services to
23 recipients under the medical assistance program under Article V
24 if, after reasonable notice and opportunity for a hearing, the
25 Illinois Department finds that (i) the vendor, (ii) a person
26 with management responsibility for a vendor, (iii) an officer

1 or person owning, either directly or indirectly, 5% or more of
2 the shares of stock or other evidences of ownership in a
3 corporate vendor, (iv) an owner of a sole proprietorship that
4 is a vendor, or (v) a partner in a partnership that is a vendor
5 has been convicted of a felony offense related to any of the
6 following:

7 (1) Murder.

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

9 (A-15) The Department may deny the eligibility of any
10 person, firm, corporation, association, agency, institution,
11 or other legal entity to participate as a vendor of goods or
12 services to recipients under the medical assistance program
13 under Article V if, after reasonable notice and opportunity for
14 a hearing, the Department finds:

15 (1) The applicant or any person with management
16 responsibility for the applicant; an incorporator,
17 officer, or member of the board of directors of an
18 applicant; an entity owning (directly or indirectly) 5% or
19 more of the shares of stock or other evidences of ownership
20 in a corporate vendor applicant; an owner of a sole
21 proprietorship applicant; a partner in a partnership
22 applicant; or a technical or other advisor to an applicant
23 has a debt owed to the Department, and no payment
24 arrangements acceptable to the Department have been made.

25 (2) The applicant or any person with management
26 responsibility for the applicant; an incorporator,

1 officer, or member of the board of directors of an
2 applicant; an entity owning (directly or indirectly) 5% or
3 more of the shares of stock or other evidences of ownership
4 in a corporate vendor applicant; an owner of a sole
5 proprietorship applicant; a partner in a partnership
6 vendor applicant; or a technical or other advisor to an
7 applicant was (i) a person with management responsibility,
8 (ii) an incorporator, officer, or member of the board of
9 directors of an applicant, (iii) an entity owning (directly
10 or indirectly) 5% or more of the shares of stock or other
11 evidences of ownership in a corporate vendor, (iv) an owner
12 of a sole proprietorship, (v) a partner in a partnership
13 vendor, or (vi) a technical or other advisor to a vendor,
14 during a period of time when the conduct of that vendor
15 resulted in a debt owed to the Department, and no payment
16 arrangements acceptable to the Department have been made by
17 that vendor.

18 (3) There is credible evidence of the use, transfer, or
19 lease of assets of any kind to an applicant from a current
20 or prior vendor who has a debt owed to the Department and
21 no payment arrangements acceptable to the Department have
22 been made by that vendor.

23 (4) There is credible evidence of a transfer of
24 management responsibilities, or direct or indirect
25 ownership, or other evidences of ownership of any kind, to
26 an applicant from a current or prior vendor who has a debt

1 owed to the Department and no payment arrangements
2 acceptable to the Department have been made.

3 (5) There is credible evidence of the use, transfer, or
4 lease of assets of any kind to an applicant who is a
5 spouse, child, brother, sister, parent, grandparent,
6 grandchild, uncle, aunt, niece, relative by marriage,
7 nephew, cousin, or relative of a current or prior vendor
8 who has a debt owed to the Department and no payment
9 arrangements acceptable to the Department have been made.

10 The Department shall by rule define what constitutes
11 "credible" evidence for purposes of this subsection. The
12 Department shall state by rule a process and criteria by which
13 a provider or alternate payee may request to make acceptable
14 payment arrangements.

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

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

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

26 (3) if such vendor has been convicted of a violation of

1 this Code, as provided in Article VIIIA.

2 (C) Upon termination or exclusion of a vendor of goods or
3 services from participation in the medical assistance program
4 authorized by this Article, a person with management
5 responsibility for such vendor during the time of any conduct
6 which served as the basis for that vendor's termination or
7 exclusion is barred from participation in the medical
8 assistance program.

9 Upon termination or exclusion of a corporate vendor, the
10 officers and persons owning, directly or indirectly, 5% or more
11 of the shares of stock or other evidences of ownership in the
12 vendor during the time of any conduct which served as the basis
13 for that vendor's termination or exclusion are barred from
14 participation in the medical assistance program. A person who
15 owns, directly or indirectly, 5% or more of the shares of stock
16 or other evidences of ownership in a terminated or excluded
17 ~~corporate~~ vendor may not transfer his or her ownership interest
18 in that vendor to his or her spouse, child, brother, sister,
19 parent, grandparent, grandchild, uncle, aunt, niece, nephew,
20 cousin, or relative by marriage.

21 Upon termination or exclusion of a sole proprietorship or
22 partnership, the owner or partners during the time of any
23 conduct which served as the basis for that vendor's termination
24 or exclusion are barred from participation in the medical
25 assistance program. The owner of a terminated or excluded
26 vendor that is a sole proprietorship, and a partner in a

1 terminated or excluded 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 A person who owns, directly or indirectly, 5% or more of
7 the shares of stock or other evidences of ownership in a vendor
8 who owes a debt to the Department and has not made acceptable
9 payment arrangements shall not transfer his or her ownership
10 interest in that vendor, or vendor assets of any kind, to his
11 or her spouse, child, brother, sister, parent, grandparent,
12 grandchild, uncle, aunt, niece, nephew, cousin, or relative by
13 marriage.

14 Rules adopted by the Illinois Department to implement these
15 provisions shall specifically include a definition of the term
16 "management responsibility" as used in this Section. Such
17 definition shall include, but not be limited to, typical job
18 titles, and duties and descriptions which will be considered as
19 within the definition of individuals with management
20 responsibility for a provider.

21 A vendor or a prior vendor who has been terminated,
22 excluded, or suspended from the Illinois medical assistance
23 program, or from another State program of the same kind
24 provided under Article V of this Code or from the Medicare
25 program under Title XVIII of the Social Security Act, and any
26 individual currently or previously barred as a result of being

1 an officer or a person owning, directly or indirectly, 5% or
2 more of the shares of stock or other evidences of ownership in
3 a vendor during the time of any conduct which served as the
4 basis for that vendor's termination, suspension, or exclusion,
5 may be required to post a surety bond as part of a condition of
6 enrollment or participation in the Illinois medical assistance
7 program. The Department shall establish, by rule, the criteria
8 and requirements for determining when a surety bond must be
9 posted and the value of the bond.

10 A vendor or a prior vendor who has a debt owed to the
11 Department, including debts discharged under federal or State
12 bankruptcy laws, and any individual currently or previously
13 barred as a result of being an officer or a person owning,
14 directly or indirectly, 5% or more of the shares of stock or
15 other evidences of ownership in that vendor during the time of
16 any conduct which served as the basis for the debt, may be
17 required to post a surety bond as part of a condition of
18 enrollment or participation in the Illinois medical assistance
19 program. The Department shall establish, by rule, the criteria
20 and requirements for determining when a surety bond must be
21 posted and the value of the bond.

22 (D) If a vendor has been suspended from the medical
23 assistance program under Article V of the Code, the Director
24 may require that such vendor correct any deficiencies which
25 served as the basis for the suspension. The Director shall
26 specify in the suspension order a specific period of time,

1 which shall not exceed one year from the date of the order,
2 during which a suspended vendor shall not be eligible to
3 participate. At the conclusion of the period of suspension the
4 Director shall reinstate such vendor, unless he finds that such
5 vendor has not corrected deficiencies upon which the suspension
6 was based.

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

1 application for reinstatement is denied.

2 A vendor whose termination or exclusion from participation
3 in the Illinois medical assistance program under Article V was
4 based solely on an action by a governmental entity other than
5 the Illinois Department may, upon reinstatement by that
6 governmental entity or upon reversal of the termination or
7 exclusion, apply for rescission of the termination or exclusion
8 from participation in the Illinois medical assistance program.
9 Upon proper application for rescission, the vendor may be
10 deemed eligible by the Director if the vendor meets the
11 requirements for eligibility under this Code.

12 If a vendor has been terminated or excluded and reinstated
13 to the medical assistance program under Article V and the
14 vendor is terminated or excluded a second or subsequent time
15 from the medical assistance program, the vendor shall be barred
16 from participation for at least 2 years, except that if a
17 vendor has been terminated or excluded a second time based on a
18 conviction of a violation of Article VIIIA or a conviction of a
19 felony based on fraud or a willful misrepresentation related to
20 (i) the medical assistance program under Article V, (ii) a
21 medical assistance program in another state that is of the kind
22 provided under Article V, (iii) the Medicare program under
23 Title XVIII of the Social Security Act, or (iv) the provision
24 of health care services, then the vendor shall be barred from
25 participation for life. At the end of 2 years, a vendor who has
26 been terminated or excluded may apply for reinstatement to the

1 program. Upon application to be reinstated, the vendor may be
2 deemed eligible if the vendor meets the requirements for
3 eligibility under this Code. If the vendor is deemed not
4 eligible for reinstatement, the vendor shall be barred from
5 again applying for reinstatement for 2 years from the date the
6 vendor's application for reinstatement is denied.

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

11 The Department may recover interest on the amount of the
12 overpayment if the total overpayment is greater than \$100. The
13 interest on the outstanding overpayment balance shall be at a
14 rate of one-half of 1% per month or fraction thereof, based on
15 the date the Department first notifies the vendor or payee of
16 the debt owed the Department, subject to a maximum of 6% per
17 annum.

18 ~~If the Illinois Department establishes through an~~
19 ~~administrative hearing that the overpayments resulted from the~~
20 ~~vendor or alternate payee willfully making, or causing to be~~
21 ~~made, a false statement or misrepresentation of a material fact~~
22 ~~in connection with billings and payments under the medical~~
23 ~~assistance program under Article V, the Department may recover~~
24 ~~interest on the amount of the overpayments at the rate of 5%~~
25 ~~per annum. For purposes of this paragraph, "willfully" means~~
26 ~~that a person makes a statement or representation with actual~~

1 ~~knowledge that it was false, or makes a statement or~~
2 ~~representation with knowledge of facts or information that~~
3 ~~would cause one to be aware that the statement or~~
4 ~~representation was false when made.~~

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

25 Notwithstanding recovery allowed under subsection (E) of
26 this Section, the Illinois Department may withhold payments to

1 any vendor or alternate payee who is not properly licensed,
2 certified, or in compliance with the State or federal agency
3 regulations. Payments may be denied for bills submitted with
4 service dates occurring during the period of time in which a
5 vendor is not properly licensed, certified, or in compliance
6 with State or federal regulations.

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

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

22 (2) If the vendor is a sole proprietorship: the owner
23 of the sole proprietorship.

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

26 (4) If the vendor or alternate payee is any other

1 business entity authorized by law to transact business in
2 this State: an officer of the entity or an individual who
3 owns, either directly or indirectly, 5% or more of the
4 evidences of ownership of the entity.

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

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

25 (F-15) Enforcement of judgment.

26 (1) Any fine, recovery amount, other sanction, or costs

1 imposed, or any part of any fine, recovery amount, other
2 sanction, or costs imposed, remaining unpaid after the
3 exhaustion of or the failure to exhaust judicial review
4 procedures under the Illinois Administrative Review Law
5 are a debt due and owing the State and may be collected in
6 accordance with applicable law.

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

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

1 appear at a hearing before the administrative hearing
2 officer to determine whether the defendant has failed to
3 comply with the judgment. The notice shall set the date for
4 such a hearing, which shall not be less than 7 days from
5 the date that notice is served. If notice is served by
6 mail, the 7-day period shall begin to run on the date that
7 the notice was deposited in the mail.

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

19 (5) The Director may set aside any judgment entered by
20 default and set a new hearing date, upon a petition filed
21 within 21 days after the issuance of the order of default,
22 if the hearing officer determines that the petitioner's
23 failure to appear at the hearing was for good cause, or at
24 any time if the petitioner's failure to appear at the
25 hearing was for good cause, or at any time if the
26 petitioner established that the Department did not provide

1 proper service of process. If any judgment is set aside
2 pursuant to this paragraph (5), the hearing officer shall
3 have authority to enter an order extinguishing any lien
4 which has been recorded for any debt due and owing the
5 State as a result of the vacated default judgment.

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

13 (G-5) Non-emergency transportation.

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

21 (2) Vendors of non-emergency medical transportation
22 services, as defined by the Department by rule, shall
23 submit to a fingerprint-based criminal background check on
24 current and future information available in the State
25 system and current information available through the
26 Federal Bureau of Investigation's system by submitting all

1 necessary fees and information in the form and manner
2 prescribed by the Department of State Police. The following
3 individuals shall be subject to the check:

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

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

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

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

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

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

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

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

26 (B) the Department has issued notification of its

1 withholding of payments pursuant to subsection (F-5)
2 of this Section; or

3 (C) the Department has issued a notification of its
4 withholding of payments due to reliable evidence of
5 fraud or willful misrepresentation pending
6 investigation.

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

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

16 (1) Termination of the provider agreement.

17 (2) Temporary management.

18 (3) Denial of payment for new admissions.

19 (4) Civil money penalties.

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

22 (6) State monitoring.

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

25 The Illinois Department shall by rule establish criteria
26 governing continued payments to a nursing facility subsequent

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

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

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

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

26 (J) The Illinois Department, by rule, may permit individual

1 practitioners to designate that Department payments that may be
2 due the practitioner be made to an alternate payee or alternate
3 payees.

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

7 (b) If a practitioner designates an alternate payee,
8 the alternate payee and practitioner shall be jointly and
9 severally liable to the Department for payments made to the
10 alternate payee. Pursuant to subsection (E) of this
11 Section, any Department action to recover money or
12 overpayments from an alternate payee shall be subject to an
13 administrative hearing.

14 (c) Registration as an alternate payee or alternate
15 payees in the Illinois Medical Assistance Program shall be
16 conditional. At any time, the Illinois Department may deny
17 or cancel any alternate payee's registration in the
18 Illinois Medical Assistance Program without cause. Any
19 such denial or cancellation is not subject to an
20 administrative hearing.

21 (d) The Illinois Department may seek a revocation of
22 any alternate payee, and all owners, officers, and
23 individuals with management responsibility for such
24 alternate payee shall be permanently prohibited from
25 participating as an owner, an officer, or an individual
26 with management responsibility with an alternate payee in

1 the Illinois Medical Assistance Program, if after
2 reasonable notice and opportunity for a hearing the
3 Illinois Department finds that:

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

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

14 (3) the alternate payee has failed to furnish any
15 information requested by the Illinois Department
16 regarding payments claimed as an alternate payee; or

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

22 (5) 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) was previously terminated or excluded from
3 participation as a vendor in the Illinois Medical
4 Assistance Program, or was previously revoked as
5 an alternate payee in the Illinois Medical
6 Assistance Program, or was terminated or excluded
7 from participation as a vendor in a medical
8 assistance program in another state that is of the
9 same kind as the program of medical assistance
10 provided under Article V of this Code; or

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

24 (c) 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

1 corporate vendor previously terminated or excluded
2 from participation as a vendor in the Illinois
3 Medical Assistance Program, or was previously
4 revoked as an alternate payee in the Illinois
5 Medical Assistance Program, or was terminated or
6 excluded from participation as a vendor in a
7 medical assistance program in another state that
8 is of the same kind as the program of medical
9 assistance provided under Article V of this Code,
10 during the time of conduct which was the basis for
11 that vendor's termination or exclusion; or

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

25 (6) the alternate payee, a person with management
26 responsibility for an alternate payee, an officer or

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

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

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

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

23 (d) was an owner of a sole proprietorship or
24 partner in a partnership which was a vendor or
25 alternate payee at the time such vendor or
26 alternate payee engaged in practices prohibited by

1 applicable federal or State law or regulation
2 relating to the Illinois Medical Assistance
3 Program; or

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

16 (K) The Illinois Department of Healthcare and Family
17 Services may withhold payments, in whole or in part, to a
18 provider or alternate payee upon receipt of evidence, received
19 from State or federal law enforcement or federal oversight
20 agencies or from the results of a preliminary Department audit
21 and determined by the Department to be credible, that the
22 circumstances giving rise to the need for a withholding of
23 payments may involve fraud or willful misrepresentation under
24 the Illinois Medical Assistance program. The Department shall
25 by rule define what constitutes "credible" evidence for
26 purposes of this subsection. The Department may withhold

1 payments without first notifying the provider or alternate
2 payee of its intention to withhold such payments. A provider or
3 alternate payee may request a reconsideration of payment
4 withholding, and the Department must grant such a request. The
5 Department shall state by rule a process and criteria by which
6 a provider or alternate payee may request full or partial
7 release of payments withheld under this subsection. This
8 request may be made at any time after the Department first
9 withholds such payments.

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

17 (1) State that payments are being withheld in
18 accordance with this subsection.

19 (2) State that the withholding is for a temporary
20 period, as stated in paragraph (b) of this subsection,
21 and cite the circumstances under which withholding
22 will be terminated.

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

25 (4) Inform the provider or alternate payee of the
26 right to submit written evidence for reconsideration

1 of the withholding by the Illinois Department.

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

7 (b) All withholding-of-payment actions under this
8 subsection shall be temporary and shall not continue after
9 any of the following:

10 (1) The Illinois Department or the prosecuting
11 authorities determine that there is insufficient
12 evidence of fraud or willful misrepresentation by the
13 provider or alternate payee.

14 (2) Legal proceedings related to the provider's or
15 alternate payee's alleged fraud, willful
16 misrepresentation, violations of this Act, or
17 violations of the Illinois Department's administrative
18 rules are completed.

19 (3) The withholding of payments for a period of 3
20 years.

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

23 (K-5) The Illinois Department of Healthcare and Family
24 Services may withhold payments, in whole or in part, to a
25 provider or alternate payee upon initiation of an audit,
26 quality of care review, or investigation when there is credible

1 evidence of financial risk or the provider demonstrates a
2 failure to cooperate with the Department creating
3 circumstances giving rise to the need for a withholding of
4 payments. The Department shall by rule define what constitutes
5 "credible" evidence for purposes of this subsection. The
6 Department may withhold payments without first notifying the
7 provider or alternate payee of its intention to withhold such
8 payments. A provider or alternate payee may request a
9 reconsideration of payment withholding, and the Department
10 must grant such a request. The Department shall state by rule a
11 process and criteria by which a provider or alternate payee may
12 request full or partial release of payments withheld under this
13 subsection. This request may be made at any time after the
14 Department first withholds such payments.

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

21 (1) State that payments are being withheld in
22 accordance with this subsection.

23 (2) State that the withholding is for a temporary
24 period, as stated in paragraph (b) of this subsection,
25 and cite the circumstances under which withholding
26 will be terminated.

1 (3) Specify, when appropriate, which type or types
2 of Medicaid claims withholding are effective.

3 (4) Inform the provider or alternate payee of the
4 right to submit written evidence for reconsideration
5 of the withholding by the Department.

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

11 (b) All withholding of payment actions under this
12 subsection shall be temporary and shall not continue after
13 any of the following:

14 (1) the Department determines that there is
15 insufficient evidence of financial risk by the
16 provider or alternate payee; or

17 (2) the withholding of payments has lasted for a
18 period in excess of 3 years.

19 (c) The Department may adopt all rules necessary to
20 implement this subsection (K-5).

21 (Source: P.A. 94-265, eff. 1-1-06; 94-975, eff. 6-30-06.)