



Sen. Kwame Raoul

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1 AMENDMENT TO SENATE BILL 1330

2 AMENDMENT NO. _____. Amend Senate Bill 1330, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

7 (305 ILCS 5/12-4.25) (from Ch. 23, par. 12-4.25)

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

10 (A) The Illinois Department may deny, suspend, or terminate
11 the eligibility of any person, firm, corporation, association,
12 agency, institution or other legal entity to participate as a
13 vendor of goods or services to recipients under the medical
14 assistance program under Article V, or may exclude any such
15 person or entity from participation as such a vendor, and may
16 deny, suspend, or recover payments, if after reasonable notice

1 and opportunity for a hearing the Illinois Department finds:

2 (a) Such vendor is not complying with the Department's
3 policy or rules and regulations, or with the terms and
4 conditions prescribed by the Illinois Department in its
5 vendor agreement, which document shall be developed by the
6 Department as a result of negotiations with each vendor
7 category, including physicians, hospitals, long term care
8 facilities, pharmacists, optometrists, podiatrists and
9 dentists setting forth the terms and conditions applicable
10 to the participation of each vendor group in the program;
11 or

12 (b) Such vendor has failed to keep or make available
13 for inspection, audit or copying, after receiving a written
14 request from the Illinois Department, such records
15 regarding payments claimed for providing services. This
16 section does not require vendors to make available patient
17 records of patients for whom services are not reimbursed
18 under this Code; or

19 (c) Such vendor has failed to furnish any information
20 requested by the Department regarding payments for
21 providing goods or services; or

22 (d) Such vendor has knowingly made, or caused to be
23 made, any false statement or representation of a material
24 fact in connection with the administration of the medical
25 assistance program; or

26 (e) Such vendor has furnished goods or services to a

1 recipient which are (1) in excess of need, (2) harmful, or
2 (3) of grossly inferior quality, all of such determinations
3 to be based upon competent medical judgment and
4 evaluations; or

5 (f) The vendor; a person with management
6 responsibility for a vendor; an officer or person owning,
7 either directly or indirectly, 5% or more of the shares of
8 stock or other evidences of ownership in a corporate
9 vendor; an owner of a sole proprietorship which is a
10 vendor; or a partner in a partnership which is a vendor,
11 either:

12 (1) was previously terminated, suspended, or
13 excluded from participation in the Illinois medical
14 assistance program, or was terminated, suspended, or
15 excluded from participation in another state or
16 federal medical assistance or health care program; or

17 (2) was a person with management responsibility
18 for a vendor previously terminated, suspended, or
19 excluded from participation in the Illinois medical
20 assistance program, or terminated, suspended, or
21 excluded from participation in another state or
22 federal medical assistance or health care program
23 during the time of conduct which was the basis for that
24 vendor's termination, suspension, or exclusion; or

25 (3) was an officer, or person owning, either
26 directly or indirectly, 5% or more of the shares of

1 stock or other evidences of ownership in a corporate or
2 limited liability company vendor previously
3 terminated, suspended, or excluded from participation
4 in the Illinois medical assistance program, or
5 terminated, suspended, or excluded from participation
6 in a state or federal medical assistance or health care
7 program during the time of conduct which was the basis
8 for that vendor's termination, suspension, or
9 exclusion; or

10 (4) was an owner of a sole proprietorship or
11 partner of a partnership previously terminated,
12 suspended, or excluded from participation in the
13 Illinois medical assistance program, or terminated,
14 suspended, or excluded from participation in a state or
15 federal medical assistance or health care program
16 during the time of conduct which was the basis for that
17 vendor's termination, suspension, or exclusion; or

18 (f-1) Such vendor has a delinquent debt owed to the
19 Illinois Department; or

20 (g) The vendor; a person with management
21 responsibility for a vendor; an officer or person owning,
22 either directly or indirectly, 5% or more of the shares of
23 stock or other evidences of ownership in a corporate or
24 limited liability company vendor; an owner of a sole
25 proprietorship which is a vendor; or a partner in a
26 partnership which is a vendor, either:

1 (1) has engaged in practices prohibited by
2 applicable federal or State law or regulation; or

3 (2) was a person with management responsibility
4 for a vendor at the time that such vendor engaged in
5 practices prohibited by applicable federal or State
6 law or regulation; or

7 (3) was an officer, or person owning, either
8 directly or indirectly, 5% or more of the shares of
9 stock or other evidences of ownership in a vendor at
10 the time such vendor engaged in practices prohibited by
11 applicable federal or State law or regulation; or

12 (4) was an owner of a sole proprietorship or
13 partner of a partnership which was a vendor at the time
14 such vendor engaged in practices prohibited by
15 applicable federal or State law or regulation; or

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

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

16 (1) The medical assistance program under Article V of
17 this Code.

18 (2) A medical assistance or health care program in
19 another state.

20 (3) The Medicare program under Title XVIII of the
21 Social Security Act.

22 (4) The provision of health care services.

23 (5) A violation of this Code, as provided in Article
24 VIIIA, or another state or federal medical assistance
25 program or health care program.

26 (A-10) The Illinois Department may deny, suspend, or

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

15 (1) Murder.

16 (2) A Class X felony under the Criminal Code of 1961 or
17 the Criminal Code of 2012.

18 (3) Sexual misconduct that may subject recipients to an
19 undue risk of harm.

20 (4) A criminal offense that may subject recipients to
21 an undue risk of harm.

22 (5) A crime of fraud or dishonesty.

23 (6) A crime involving a controlled substance.

24 (7) A misdemeanor relating to fraud, theft,
25 embezzlement, breach of fiduciary responsibility, or other
26 financial misconduct related to a health care program.

1 (A-15) The Illinois Department may deny the eligibility of
2 any person, firm, corporation, association, agency,
3 institution, or other legal entity to participate as a vendor
4 of goods or services to recipients under the medical assistance
5 program under Article V if, after reasonable notice and
6 opportunity for a hearing, the Illinois Department finds:

7 (1) The applicant or any person with management
8 responsibility for the applicant; an officer or member of
9 the board of directors of an applicant; an entity owning
10 (directly or indirectly) 5% or more of the shares of stock
11 or other evidences of ownership in a corporate vendor
12 applicant; an owner of a sole proprietorship applicant; a
13 partner in a partnership applicant; or a technical or other
14 advisor to an applicant has a debt owed to the Illinois
15 Department, and no payment arrangements acceptable to the
16 Illinois Department have been made by the applicant.

17 (2) The applicant or any person with management
18 responsibility for the applicant; an officer or member of
19 the board of directors of an applicant; an entity owning
20 (directly or indirectly) 5% or more of the shares of stock
21 or other evidences of ownership in a corporate vendor
22 applicant; an owner of a sole proprietorship applicant; a
23 partner in a partnership vendor applicant; or a technical
24 or other advisor to an applicant was (i) a person with
25 management responsibility, (ii) an officer or member of the
26 board of directors of an applicant, (iii) an entity owning

1 (directly or indirectly) 5% or more of the shares of stock
2 or other evidences of ownership in a corporate vendor, (iv)
3 an owner of a sole proprietorship, (v) a partner in a
4 partnership vendor, (vi) a technical or other advisor to a
5 vendor, during a period of time where the conduct of that
6 vendor resulted in a debt owed to the Illinois Department,
7 and no payment arrangements acceptable to the Illinois
8 Department have been made by that vendor.

9 (3) There is a credible allegation of the use,
10 transfer, or lease of assets of any kind to an applicant
11 from a current or prior vendor who has a debt owed to the
12 Illinois Department, no payment arrangements acceptable to
13 the Illinois Department have been made by that vendor or
14 the vendor's alternate payee, and the applicant knows or
15 should have known of such debt.

16 (4) There is a credible allegation of a transfer of
17 management responsibilities, or direct or indirect
18 ownership, to an applicant from a current or prior vendor
19 who has a debt owed to the Illinois Department, and no
20 payment arrangements acceptable to the Illinois Department
21 have been made by that vendor or the vendor's alternate
22 payee, and the applicant knows or should have known of such
23 debt.

24 (5) There is a credible allegation of the use,
25 transfer, or lease of assets of any kind to an applicant
26 who is a spouse, child, brother, sister, parent,

1 grandparent, grandchild, uncle, aunt, niece, relative by
2 marriage, nephew, cousin, or relative of a current or prior
3 vendor who has a debt owed to the Illinois Department and
4 no payment arrangements acceptable to the Illinois
5 Department have been made.

6 (6) There is a credible allegation that the applicant's
7 previous affiliations with a provider of medical services
8 that has an uncollected debt, a provider that has been or
9 is subject to a payment suspension under a federal health
10 care program, or a provider that has been previously
11 excluded from participation in the medical assistance
12 program, poses a risk of fraud, waste, or abuse to the
13 Illinois Department.

14 As used in this subsection, "credible allegation" is
15 defined to include an allegation from any source, including,
16 but not limited to, fraud hotline complaints, claims data
17 mining, patterns identified through provider audits, civil
18 actions filed under the Illinois False Claims Act, and law
19 enforcement investigations. An allegation is considered to be
20 credible when it has indicia of reliability.

21 (B) The Illinois Department shall deny, suspend or
22 terminate the eligibility of any person, firm, corporation,
23 association, agency, institution or other legal entity to
24 participate as a vendor of goods or services to recipients
25 under the medical assistance program under Article V, or may
26 exclude any such person or entity from participation as such a

1 vendor:

2 (1) immediately, if such vendor is not properly
3 licensed, certified, or authorized;

4 (2) within 30 days of the date when such vendor's
5 professional license, certification or other authorization
6 has been refused renewal, restricted, revoked, suspended,
7 or otherwise terminated; or

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

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

17 Upon termination, suspension, or exclusion of a corporate
18 vendor, the officers and persons owning, directly or
19 indirectly, 5% or more of the shares of stock or other
20 evidences of ownership in the vendor during the time of any
21 conduct which served as the basis for that vendor's
22 termination, suspension, or exclusion are barred from
23 participation in the medical assistance program. A person who
24 owns, directly or indirectly, 5% or more of the shares of stock
25 or other evidences of ownership in a terminated, suspended, or
26 excluded vendor may not transfer his or her ownership interest

1 in that vendor to his or her spouse, child, brother, sister,
2 parent, grandparent, grandchild, uncle, aunt, niece, nephew,
3 cousin, or relative by marriage.

4 Upon termination, suspension, or exclusion of a sole
5 proprietorship or partnership, the owner or partners during the
6 time of any conduct which served as the basis for that vendor's
7 termination, suspension, or exclusion are barred from
8 participation in the medical assistance program. The owner of a
9 terminated, suspended, or excluded vendor that is a sole
10 proprietorship, and a partner in a terminated, suspended, or
11 excluded vendor that is a partnership, may not transfer his or
12 her ownership or partnership interest in that vendor to his or
13 her spouse, child, brother, sister, parent, grandparent,
14 grandchild, uncle, aunt, niece, nephew, cousin, or relative by
15 marriage.

16 A person who owns, directly or indirectly, 5% or more of
17 the shares of stock or other evidences of ownership in a
18 corporate or limited liability company vendor who owes a debt
19 to the Department, if that vendor has not made payment
20 arrangements acceptable to the Department, shall not transfer
21 his or her ownership interest in that vendor, or vendor assets
22 of any kind, to his or her spouse, child, brother, sister,
23 parent, grandparent, grandchild, uncle, aunt, niece, nephew,
24 cousin, or relative by marriage.

25 Rules adopted by the Illinois Department to implement these
26 provisions shall specifically include a definition of the term

1 "management responsibility" as used in this Section. Such
2 definition shall include, but not be limited to, typical job
3 titles, and duties and descriptions which will be considered as
4 within the definition of individuals with management
5 responsibility for a provider.

6 A vendor or a prior vendor who has been terminated,
7 excluded, or suspended from the medical assistance program, or
8 from another state or federal medical assistance or health care
9 program, and any individual currently or previously barred from
10 the medical assistance program, or from another state or
11 federal medical assistance or health care program, as a result
12 of being an officer or a person owning, directly or indirectly,
13 5% or more of the shares of stock or other evidences of
14 ownership in a corporate or limited liability company vendor
15 during the time of any conduct which served as the basis for
16 that vendor's termination, suspension, or exclusion, may be
17 required to post a surety bond as part of a condition of
18 enrollment or participation in the medical assistance program.
19 The Illinois 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 A vendor or a prior vendor who has a debt owed to the
23 Illinois Department and any individual currently or previously
24 barred from the medical assistance program, or from another
25 state or federal medical assistance or health care program, as
26 a result of being an officer or a person owning, directly or

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

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

21 If a vendor has been terminated, suspended, or excluded
22 from the medical assistance program under Article V, such
23 vendor shall be barred from participation for at least one
24 year, except that if a vendor has been terminated, suspended,
25 or excluded based on a conviction of a violation of Article
26 VIIIA or a conviction of a felony based on fraud or a willful

1 misrepresentation related to (i) the medical assistance
2 program under Article V, (ii) a federal or another state's
3 medical assistance or health care program, or (iii) the
4 provision of health care services, then the vendor shall be
5 barred from participation for 5 years or for the length of the
6 vendor's sentence for that conviction, whichever is longer. At
7 the end of one year a vendor who has been terminated,
8 suspended, or excluded may apply for reinstatement to the
9 program. Upon proper application to be reinstated such vendor
10 may be deemed eligible by the Director providing that such
11 vendor meets the requirements for eligibility under this Code.
12 If such vendor is deemed not eligible for reinstatement, he
13 shall be barred from again applying for reinstatement for one
14 year from the date his application for reinstatement is denied.

15 A vendor whose termination, suspension, or exclusion from
16 participation in the Illinois medical assistance program under
17 Article V was based solely on an action by a governmental
18 entity other than the Illinois Department may, upon
19 reinstatement by that governmental entity or upon reversal of
20 the termination, suspension, or exclusion, apply for
21 rescission of the termination, suspension, or exclusion from
22 participation in the Illinois medical assistance program. Upon
23 proper application for rescission, the vendor may be deemed
24 eligible by the Director if the vendor meets the requirements
25 for eligibility under this Code.

26 If a vendor has been terminated, suspended, or excluded and

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

21 (E) The Illinois Department may recover money improperly or
22 erroneously paid, or overpayments, either by setoff, crediting
23 against future billings or by requiring direct repayment to the
24 Illinois Department. The Illinois Department may suspend or
25 deny payment, in whole or in part, if such payment would be
26 improper or erroneous or would otherwise result in overpayment.

1 (1) Payments may be suspended, denied, or recovered
2 from a vendor or alternate payee: (i) for services rendered
3 in violation of the Illinois Department's provider
4 notices, statutes, rules, and regulations; (ii) for
5 services rendered in violation of the terms and conditions
6 prescribed by the Illinois Department in its vendor
7 agreement; (iii) for any vendor who fails to grant the
8 Office of Inspector General timely access to full and
9 complete records, including, but not limited to, records
10 relating to recipients under the medical assistance
11 program for the most recent 6 years, in accordance with
12 Section 140.28 of Title 89 of the Illinois Administrative
13 Code, and other information for the purpose of audits,
14 investigations, or other program integrity functions,
15 after reasonable written request by the Inspector General;
16 this subsection (E) does not require vendors to make
17 available the medical records of patients for whom services
18 are not reimbursed under this Code or to provide access to
19 medical records more than 6 years old; (iv) when the vendor
20 has knowingly made, or caused to be made, any false
21 statement or representation of a material fact in
22 connection with the administration of the medical
23 assistance program; or (v) when the vendor previously
24 rendered services while terminated, suspended, or excluded
25 from participation in the medical assistance program or
26 while terminated or excluded from participation in another

1 state or federal medical assistance or health care program.

2 (2) Notwithstanding any other provision of law, if a
3 vendor has the same taxpayer identification number
4 (assigned under Section 6109 of the Internal Revenue Code
5 of 1986) as is assigned to a vendor with past-due financial
6 obligations to the Illinois Department, the Illinois
7 Department may make any necessary adjustments to payments
8 to that vendor in order to satisfy any past-due
9 obligations, regardless of whether the vendor is assigned a
10 different billing number under the medical assistance
11 program.

12 ~~If the Illinois Department establishes through an~~
13 ~~administrative hearing that the overpayments resulted from the~~
14 ~~vendor or alternate payee knowingly making, using, or causing~~
15 ~~to be made or used, a false record or statement to obtain~~
16 ~~payment or other benefit from the medical assistance program~~
17 ~~under Article V, the Department may recover interest on the~~
18 ~~amount of the payment or other benefit at the rate of 5% per~~
19 ~~annum. In addition to any other penalties that may be~~
20 ~~prescribed by law, such a vendor or alternate payee shall be~~
21 ~~subject to civil penalties consisting of an amount not to~~
22 ~~exceed 3 times the amount of payment or other benefit resulting~~
23 ~~from each such false record or statement, and the sum of \$2,000~~
24 ~~for each such false record or statement for payment or other~~
25 ~~benefit. For purposes of this paragraph, "knowingly" means that~~
26 ~~a vendor or alternate payee with respect to information: (i)~~

1 ~~has actual knowledge of the information, (ii) acts in~~
2 ~~deliberate ignorance of the truth or falsity of the~~
3 ~~information, or (iii) acts in reckless disregard of the truth~~
4 ~~or falsity of the information. No proof of specific intent to~~
5 ~~defraud is required.~~

6 (E-5) Civil monetary penalties.

7 (1) As used in this subsection (E-5):

8 (a) "Knowingly" means that a person, with respect
9 to information: (i) has actual knowledge of the
10 information; (ii) acts in deliberate ignorance of the
11 truth or falsity of the information; or (iii) acts in
12 reckless disregard of the truth or falsity of the
13 information. No proof of specific intent to defraud is
14 required.

15 (b) "Overpayment" means any funds that a person
16 receives or retains from the medical assistance
17 program to which the person, after applicable
18 reconciliation, is not entitled under this Code.

19 (c) "Remuneration" means the offer or transfer of
20 items or services for free or for other than fair
21 market value by a person; however, remuneration does
22 not include items or services of a nominal value of no
23 more than \$10 per item or service, or \$50 in the
24 aggregate on an annual basis, or any other offer or
25 transfer of items or services as determined by the
26 Department.

1 (d) "Should know" means that a person, with respect
2 to information: (i) acts in deliberate ignorance of the
3 truth or falsity of the information; or (ii) acts in
4 reckless disregard of the truth or falsity of the
5 information. No proof of specific intent to defraud is
6 required.

7 (2) Any person (including a vendor, provider,
8 organization, agency, or other entity, or an alternate
9 payee thereof, but excluding a recipient) who:

10 (a) knowingly presents or causes to be presented to
11 an officer, employee, or agent of the State, a claim
12 that the Department determines:

13 (i) is for a medical or other item or service
14 that the person knows or should know was not
15 provided as claimed, including any person who
16 engages in a pattern or practice of presenting or
17 causing to be presented a claim for an item or
18 service that is based on a code that the person
19 knows or should know will result in a greater
20 payment to the person than the code the person
21 knows or should know is applicable to the item or
22 service actually provided;

23 (ii) is for a medical or other item or service
24 and the person knows or should know that the claim
25 is false or fraudulent;

26 (iii) is presented for a vendor physician's

1 service, or an item or service incident to a vendor
2 physician's service, by a person who knows or
3 should know that the individual who furnished, or
4 supervised the furnishing of, the service:

5 (AA) was not licensed as a physician;

6 (BB) was licensed as a physician but such
7 license had been obtained through a
8 misrepresentation of material fact (including
9 cheating on an examination required for
10 licensing); or

11 (CC) represented to the patient at the
12 time the service was furnished that the
13 physician was certified in a medical specialty
14 by a medical specialty board, when the
15 individual was not so certified;

16 (iv) is for a medical or other item or service
17 furnished during a period in which the person was
18 excluded from the medical assistance program or a
19 federal or state health care program under which
20 the claim was made pursuant to applicable law; or

21 (v) is for a pattern of medical or other items
22 or services that a person knows or should know are
23 not medically necessary;

24 (b) knowingly presents or causes to be presented to
25 any person a request for payment which is in violation
26 of the conditions for receipt of vendor payments under

1 the medical assistance program under Section 11-13 of
2 this Code;

3 (c) knowingly gives or causes to be given to any
4 person, with respect to medical assistance program
5 coverage of inpatient hospital services, information
6 that he or she knows or should know is false or
7 misleading, and that could reasonably be expected to
8 influence the decision when to discharge such person or
9 other individual from the hospital;

10 (d) in the case of a person who is not an
11 organization, agency, or other entity, is excluded
12 from participating in the medical assistance program
13 or a federal or state health care program and who, at
14 the time of a violation of this subsection (E-5):

15 (i) retains a direct or indirect ownership or
16 control interest in an entity that is
17 participating in the medical assistance program or
18 a federal or state health care program, and who
19 knows or should know of the action constituting the
20 basis for the exclusion; or

21 (ii) is an officer or managing employee of such
22 an entity;

23 (e) offers or transfers remuneration to any
24 individual eligible for benefits under the medical
25 assistance program that such person knows or should
26 know is likely to influence such individual to order or

1 receive from a particular vendor, provider,
2 practitioner, or supplier any item or service for which
3 payment may be made, in whole or in part, under the
4 medical assistance program;

5 (f) arranges or contracts (by employment or
6 otherwise) with an individual or entity that the person
7 knows or should know is excluded from participation in
8 the medical assistance program or a federal or state
9 health care program, for the provision of items or
10 services for which payment may be made under such a
11 program;

12 (g) commits an act described in subsection (b) or
13 (c) of Section 8A-3;

14 (h) knowingly makes, uses, or causes to be made or
15 used, a false record or statement material to a false
16 or fraudulent claim for payment for items and services
17 furnished under the medical assistance program;

18 (i) fails to grant timely access, upon reasonable
19 request (as defined by the Department by rule), to the
20 Inspector General, for the purpose of audits,
21 investigations, evaluations, or other statutory
22 functions of the Inspector General of the Department;

23 (j) orders or prescribes a medical or other item or
24 service during a period in which the person was
25 excluded from the medical assistance program or a
26 federal or state health care program, in the case where

1 the person knows or should know that a claim for such
2 medical or other item or service will be made under
3 such a program;

4 (k) knowingly makes or causes to be made any false
5 statement, omission, or misrepresentation of a
6 material fact in any application, bid, or contract to
7 participate or enroll as a vendor or provider of
8 services or a supplier under the medical assistance
9 program;

10 (l) knows of an overpayment and does not report and
11 return the overpayment to the Department in accordance
12 with paragraph (6);

13 shall be subject, in addition to any other penalties that
14 may be prescribed by law, to a civil money penalty of not
15 more than \$10,000 for each item or service (or, in cases
16 under subparagraph (c), \$15,000 for each individual with
17 respect to whom false or misleading information was given;
18 in cases under subparagraph (d), \$10,000 for each day the
19 prohibited relationship occurs; in cases under
20 subparagraph (g), \$50,000 for each such act; in cases under
21 subparagraph (h), \$50,000 for each false record or
22 statement; in cases under subparagraph (i), \$15,000 for
23 each day of the failure described in such subparagraph; or
24 in cases under subparagraph (k), \$50,000 for each false
25 statement, omission, or misrepresentation of a material
26 fact). In addition, such a person shall be subject to an

1 assessment of not more than 3 times the amount claimed for
2 each such item or service in lieu of damages sustained by
3 the State because of such claim (or, in cases under
4 subparagraph (g), damages of not more than 3 times the
5 total amount of remuneration offered, paid, solicited, or
6 received, without regard to whether a portion of such
7 remuneration was offered, paid, solicited, or received for
8 a lawful purpose; or in cases under subparagraph (k), an
9 assessment of not more than 3 times the total amount
10 claimed for each item or service for which payment was made
11 based upon the application, bid, or contract containing the
12 false statement, omission, or misrepresentation of a
13 material fact).

14 (3) In addition, the Director or his or her designee
15 may make a determination in the same proceeding to exclude,
16 terminate, suspend, or bar the person from participation in
17 the medical assistance program.

18 (4) The Illinois Department may seek the civil monetary
19 penalties and exclusion, termination, suspension, or
20 barment identified in this subsection (E-5). Prior to the
21 imposition of any penalties or sanctions, the affected
22 person shall be afforded an opportunity for a hearing after
23 reasonable notice. The Department shall establish hearing
24 procedures by rule.

25 (5) Any final order, decision, or other determination
26 made, issued, or executed by the Director under the

1 provisions of this subsection (E-5), whereby a person is
2 aggrieved, shall be subject to review in accordance with
3 the provisions of the Administrative Review Law, and the
4 rules adopted pursuant thereto, which shall apply to and
5 govern all proceedings for the judicial review of final
6 administrative decisions of the Director.

7 (6) (a) If a person has received an overpayment, the
8 person shall:

9 (i) report and return the overpayment to the
10 Department at the correct address; and

11 (ii) notify the Department in writing of the reason
12 for the overpayment.

13 (b) An overpayment must be reported and returned under
14 subparagraph (a) by the later of:

15 (i) the date which is 60 days after the date on
16 which the overpayment was identified; or

17 (ii) the date any corresponding cost report is due,
18 if applicable.

19 (F) The Illinois Department may withhold payments to any
20 vendor or alternate payee prior to or during the pendency of
21 any audit or proceeding under this Section, and through the
22 pendency of any administrative appeal or administrative review
23 by any court proceeding. The Illinois Department shall state by
24 rule with as much specificity as practicable the conditions
25 under which payments will not be withheld under this Section.
26 Payments may be denied for bills submitted with service dates

1 occurring during the pendency of a proceeding, after a final
2 decision has been rendered, or after the conclusion of any
3 administrative appeal, where the final administrative decision
4 is to terminate, exclude, or suspend eligibility to participate
5 in the medical assistance program. The Illinois Department
6 shall state by rule with as much specificity as practicable the
7 conditions under which payments will not be denied for such
8 bills. The Illinois Department shall state by rule a process
9 and criteria by which a vendor or alternate payee may request
10 full or partial release of payments withheld under this
11 subsection. The Department must complete a proceeding under
12 this Section in a timely manner.

13 Notwithstanding recovery allowed under subsection (E) or
14 this subsection (F), the Illinois Department may withhold
15 payments to any vendor or alternate payee who is not properly
16 licensed, certified, or in compliance with State or federal
17 agency regulations. Payments may be denied for bills submitted
18 with service dates occurring during the period of time that a
19 vendor is not properly licensed, certified, or in compliance
20 with State or federal regulations. Facilities licensed under
21 the Nursing Home Care Act shall have payments denied or
22 withheld pursuant to subsection (I) of this Section.

23 (F-5) The Illinois Department may temporarily withhold
24 payments to a vendor or alternate payee if any of the following
25 individuals have been indicted or otherwise charged under a law
26 of the United States or this or any other state with an offense

1 that is based on alleged fraud or willful misrepresentation on
2 the part of the individual related to (i) the medical
3 assistance program under Article V of this Code, (ii) a federal
4 or another state's medical assistance or health care program,
5 or (iii) the provision of health care services:

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

10 (2) If the vendor is a sole proprietorship: the owner
11 of the sole proprietorship.

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

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

19 If the Illinois Department withholds payments to a vendor
20 or alternate payee under this subsection, the Department shall
21 not release those payments to the vendor or alternate payee
22 while any criminal proceeding related to the indictment or
23 charge is pending unless the Department determines that there
24 is good cause to release the payments before completion of the
25 proceeding. If the indictment or charge results in the
26 individual's conviction, the Illinois Department shall retain

1 all withheld payments, which shall be considered forfeited to
2 the Department. If the indictment or charge does not result in
3 the individual's conviction, the Illinois Department shall
4 release to the vendor or alternate payee all withheld payments.

5 (F-10) If the Illinois Department establishes that the
6 vendor or alternate payee owes a debt to the Illinois
7 Department, and the vendor or alternate payee subsequently
8 fails to pay or make satisfactory payment arrangements with the
9 Illinois Department for the debt owed, the Illinois Department
10 may seek all remedies available under the law of this State to
11 recover the debt, including, but not limited to, wage
12 garnishment or the filing of claims or liens against the vendor
13 or alternate payee.

14 (F-15) Enforcement of judgment.

15 (1) Any fine, recovery amount, other sanction, or costs
16 imposed, or part of any fine, recovery amount, other
17 sanction, or cost imposed, remaining unpaid after the
18 exhaustion of or the failure to exhaust judicial review
19 procedures under the Illinois Administrative Review Law is
20 a debt due and owing the State and may be collected using
21 all remedies available under the law.

22 (2) After expiration of the period in which judicial
23 review under the Illinois Administrative Review Law may be
24 sought for a final administrative decision, unless stayed
25 by a court of competent jurisdiction, the findings,
26 decision, and order of the Director may be enforced in the

1 same manner as a judgment entered by a court of competent
2 jurisdiction.

3 (3) In any case in which any person or entity has
4 failed to comply with a judgment ordering or imposing any
5 fine or other sanction, any expenses incurred by the
6 Illinois Department to enforce the judgment, including,
7 but not limited to, attorney's fees, court costs, and costs
8 related to property demolition or foreclosure, after they
9 are fixed by a court of competent jurisdiction or the
10 Director, shall be a debt due and owing the State and may
11 be collected in accordance with applicable law. Prior to
12 any expenses being fixed by a final administrative decision
13 pursuant to this subsection (F-15), the Illinois
14 Department shall provide notice to the individual or entity
15 that states that the individual or entity shall appear at a
16 hearing before the administrative hearing officer to
17 determine whether the individual or entity has failed to
18 comply with the judgment. The notice shall set the date for
19 such a hearing, which shall not be less than 7 days from
20 the date that notice is served. If notice is served by
21 mail, the 7-day period shall begin to run on the date that
22 the notice was deposited in the mail.

23 (4) Upon being recorded in the manner required by
24 Article XII of the Code of Civil Procedure or by the
25 Uniform Commercial Code, a lien shall be imposed on the
26 real estate or personal estate, or both, of the individual

1 or entity in the amount of any debt due and owing the State
2 under this Section. The lien may be enforced in the same
3 manner as a judgment of a court of competent jurisdiction.
4 A lien shall attach to all property and assets of such
5 person, firm, corporation, association, agency,
6 institution, or other legal entity until the judgment is
7 satisfied.

8 (5) The Director may set aside any judgment entered by
9 default and set a new hearing date upon a petition filed at
10 any time (i) if the petitioner's failure to appear at the
11 hearing was for good cause, or (ii) if the petitioner
12 established that the Department did not provide proper
13 service of process. If any judgment is set aside pursuant
14 to this paragraph (5), the hearing officer shall have
15 authority to enter an order extinguishing any lien which
16 has been recorded for any debt due and owing the Illinois
17 Department as a result of the vacated default judgment.

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) Vendors who pose a risk of fraud, waste, abuse, or
26 harm.

1 (1) Notwithstanding any other provision in this
2 Section, the Department may terminate, suspend, or exclude
3 vendors who pose a risk of fraud, waste, abuse, or harm
4 from participation in the medical assistance program prior
5 to an evidentiary hearing but after reasonable notice and
6 opportunity to respond as established by the Department by
7 rule.

8 (2) Vendors who pose a risk of fraud, waste, abuse, or
9 harm shall submit to a fingerprint-based criminal
10 background check on current and future information
11 available in the State system and current information
12 available through the Federal Bureau of Investigation's
13 system by submitting all necessary fees and information in
14 the form and manner prescribed by the Department of State
15 Police. The following individuals shall be subject to the
16 check:

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

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

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

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

25 Each such vendor shall be responsible for payment of
26 the cost of the criminal background check.

1 (3) Vendors who pose a risk of fraud, waste, abuse, or
2 harm may be required to post a surety bond. The Department
3 shall establish, by rule, the criteria and requirements for
4 determining when a surety bond must be posted and the value
5 of the bond.

6 (4) The Department, or its agents, may refuse to accept
7 requests for authorization from specific vendors who pose a
8 risk of fraud, waste, abuse, or harm, including
9 prior-approval and post-approval requests, if:

10 (A) the Department has initiated a notice of
11 termination, suspension, or exclusion of the vendor
12 from participation in the medical assistance program;
13 or

14 (B) the Department has issued notification of its
15 withholding of payments pursuant to subsection (F-5)
16 of this Section; or

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

21 (5) As used in this subsection, the following terms are
22 defined as follows:

23 (A) "Fraud" means an intentional deception or
24 misrepresentation made by a person with the knowledge
25 that the deception could result in some unauthorized
26 benefit to himself or herself or some other person. It

1 includes any act that constitutes fraud under
2 applicable federal or State law.

3 (B) "Abuse" means provider practices that are
4 inconsistent with sound fiscal, business, or medical
5 practices and that result in an unnecessary cost to the
6 medical assistance program or in reimbursement for
7 services that are not medically necessary or that fail
8 to meet professionally recognized standards for health
9 care. It also includes recipient practices that result
10 in unnecessary cost to the medical assistance program.
11 Abuse does not include diagnostic or therapeutic
12 measures conducted primarily as a safeguard against
13 possible vendor liability.

14 (C) "Waste" means the unintentional misuse of
15 medical assistance resources, resulting in unnecessary
16 cost to the medical assistance program. Waste does not
17 include diagnostic or therapeutic measures conducted
18 primarily as a safeguard against possible vendor
19 liability.

20 (D) "Harm" means physical, mental, or monetary
21 damage to recipients or to the medical assistance
22 program.

23 (G-6) The Illinois Department, upon making a determination
24 based upon information in the possession of the Illinois
25 Department that continuation of participation in the medical
26 assistance program by a vendor would constitute an immediate

1 danger to the public, may immediately suspend such vendor's
2 participation in the medical assistance program without a
3 hearing. In instances in which the Illinois Department
4 immediately suspends the medical assistance program
5 participation of a vendor under this Section, a hearing upon
6 the vendor's participation must be convened by the Illinois
7 Department within 15 days after such suspension and completed
8 without appreciable delay. Such hearing shall be held to
9 determine whether to recommend to the Director that the
10 vendor's medical assistance program participation be denied,
11 terminated, suspended, placed on provisional status, or
12 reinstated. In the hearing, any evidence relevant to the vendor
13 constituting an immediate danger to the public may be
14 introduced against such vendor; provided, however, that the
15 vendor, or his or her counsel, shall have the opportunity to
16 discredit, impeach, and submit evidence rebutting such
17 evidence.

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:

- 1 (1) Termination of the provider agreement.
- 2 (2) Temporary management.
- 3 (3) Denial of payment for new admissions.
- 4 (4) Civil money penalties.
- 5 (5) Closure of the facility in emergency situations or
- 6 transfer of residents, or both.
- 7 (6) State monitoring.
- 8 (7) Denial of all payments when the U.S. Department of
- 9 Health and Human Services has imposed this sanction.

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

21 Except in the case of a facility that has a right to a
22 hearing on the finding of noncompliance before an agency of the
23 federal government, a facility may request a hearing before a
24 State agency on any finding of noncompliance within 60 days
25 after the notice of the intent to impose a remedy. Except in
26 the case of civil money penalties, a request for a hearing

1 shall not delay imposition of the penalty. The choice of
2 remedies is not appealable at a hearing. The level of
3 noncompliance may be challenged only in the case of a civil
4 money penalty. The Illinois Department shall provide by rule
5 for the State agency that will conduct the evidentiary
6 hearings.

7 The Illinois Department may collect interest on unpaid
8 civil money penalties.

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

11 (J) The Illinois Department, by rule, may permit individual
12 practitioners to designate that Department payments that may be
13 due the practitioner be made to an alternate payee or alternate
14 payees.

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

18 (b) If a practitioner designates an alternate payee,
19 the alternate payee and practitioner shall be jointly and
20 severally liable to the Department for payments made to the
21 alternate payee. Pursuant to subsection (E) of this
22 Section, any Department action to suspend or deny payment
23 or recover money or overpayments from an alternate payee
24 shall be subject to an administrative hearing.

25 (c) Registration as an alternate payee or alternate
26 payees in the Illinois Medical Assistance Program shall be

1 conditional. At any time, the Illinois Department may deny
2 or cancel any alternate payee's registration in the
3 Illinois Medical Assistance Program without cause. Any
4 such denial or cancellation is not subject to an
5 administrative hearing.

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

15 (1) the alternate payee is not complying with the
16 Department's policy or rules and regulations, or with
17 the terms and conditions prescribed by the Illinois
18 Department in its alternate payee registration
19 agreement; or

20 (2) the alternate payee has failed to keep or make
21 available for inspection, audit, or copying, after
22 receiving a written request from the Illinois
23 Department, such records regarding payments claimed as
24 an alternate payee; or

25 (3) the alternate payee has failed to furnish any
26 information requested by the Illinois Department

1 regarding payments claimed as an alternate payee; or

2 (4) the alternate payee has knowingly made, or
3 caused to be made, any false statement or
4 representation of a material fact in connection with
5 the administration of the Illinois Medical Assistance
6 Program; or

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

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

23 (b) was a person with management
24 responsibility for a vendor previously terminated,
25 suspended, or excluded from participation as a
26 vendor in the Illinois Medical Assistance Program,

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

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

26 (d) was an owner of a sole proprietorship or

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

14 (6) the alternate payee, a person with management
15 responsibility for an alternate payee, an officer or
16 person owning, either directly or indirectly, 5% or
17 more of the shares of stock or other evidences of
18 ownership in a corporate alternate payee, or a partner
19 in a partnership which is an alternate payee:

20 (a) has engaged in conduct prohibited by
21 applicable federal or State law or regulation
22 relating to the Illinois Medical Assistance
23 Program; or

24 (b) was a person with management
25 responsibility for a vendor or alternate payee at
26 the time that the vendor or alternate payee engaged

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

4 (c) was an officer, or person owning, either
5 directly or indirectly, 5% or more of the shares of
6 stock or other evidences of ownership in a vendor
7 or alternate payee at the time such vendor or
8 alternate payee engaged in practices prohibited by
9 applicable federal or State law or regulation
10 relating to the Illinois Medical Assistance
11 Program; or

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

19 (7) the direct or indirect ownership of the vendor
20 or alternate payee (including the ownership of a vendor
21 or alternate payee that is a partner's interest in a
22 vendor or alternate payee, or ownership of 5% or more
23 of the shares of stock or other evidences of ownership
24 in a corporate vendor or alternate payee) has been
25 transferred by an individual who is terminated,
26 suspended, or excluded or barred from participating as

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

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

24 (a) The Illinois Department must send notice of its
25 withholding of program payments within 5 days of taking
26 such action. The notice must set forth the general

1 allegations as to the nature of the withholding action, but
2 need not disclose any specific information concerning its
3 ongoing investigation. The notice must do all of the
4 following:

5 (1) State that payments are being withheld in
6 accordance with this subsection.

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

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

13 (4) Inform the provider or alternate payee of the
14 right to submit written evidence for reconsideration
15 of the withholding by the Illinois Department.

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

21 (b) All withholding-of-payment actions under this
22 subsection shall be temporary and shall not continue after
23 any of the following:

24 (1) The Illinois Department or the prosecuting
25 authorities determine that there is insufficient
26 evidence of fraud or willful misrepresentation by the

1 provider or alternate payee.

2 (2) Legal proceedings related to the provider's or
3 alternate payee's alleged fraud, willful
4 misrepresentation, violations of this Act, or
5 violations of the Illinois Department's administrative
6 rules are completed.

7 (3) The withholding of payments for a period of 3
8 years.

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

11 (K-5) The Illinois Department may withhold payments, in
12 whole or in part, to a provider or alternate payee upon
13 initiation of an audit, quality of care review, investigation
14 when there is a credible allegation of fraud, or the provider
15 or alternate payee demonstrating a clear failure to cooperate
16 with the Illinois Department such that the circumstances give
17 rise to the need for a withholding of payments. As used in this
18 subsection, "credible allegation" is defined to include an
19 allegation from any source, including, but not limited to,
20 fraud hotline complaints, claims data mining, patterns
21 identified through provider audits, civil actions filed under
22 the Illinois False Claims Act, and law enforcement
23 investigations. An allegation is considered to be credible when
24 it has indicia of reliability. The Illinois Department may
25 withhold payments without first notifying the provider or
26 alternate payee of its intention to withhold such payments. A

1 provider or alternate payee may request a hearing or a
2 reconsideration of payment withholding, and the Illinois
3 Department must grant such a request. The Illinois Department
4 shall state by rule a process and criteria by which a provider
5 or alternate payee may request a hearing or a reconsideration
6 for the full or partial release of payments withheld under this
7 subsection. This request may be made at any time after the
8 Illinois Department first withholds such payments.

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

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

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

22 (3) Specify, when appropriate, which type or types
23 of claims are withheld.

24 (4) Inform the provider or alternate payee of the
25 right to request a hearing or a reconsideration of the
26 withholding by the Illinois Department, including the

1 ability to submit written evidence.

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

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

11 (1) The Illinois Department determines that there
12 is insufficient evidence of fraud, or the provider or
13 alternate payee demonstrates clear cooperation with
14 the Illinois Department, as determined by the Illinois
15 Department, such that the circumstances do not give
16 rise to the need for withholding of payments; or

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

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

21 (L) The Illinois Department shall establish a protocol to
22 enable health care providers to disclose an actual or potential
23 violation of this Section pursuant to a self-referral
24 disclosure protocol, referred to in this subsection as "the
25 protocol". The protocol shall include direction for health care
26 providers on a specific person, official, or office to whom

1 such disclosures shall be made. The Illinois Department shall
2 post information on the protocol on the Illinois Department's
3 public website. The Illinois Department may adopt rules
4 necessary to implement this subsection (L). In addition to
5 other factors that the Illinois Department finds appropriate,
6 the Illinois Department may consider a health care provider's
7 timely use or failure to use the protocol in considering the
8 provider's failure to comply with this Code.

9 (M) Notwithstanding any other provision of this Code, the
10 Illinois Department, at its discretion, may exempt an entity
11 licensed under the Nursing Home Care Act and the ID/DD
12 Community Care Act from the provisions of subsections (A-15),
13 (B), and (C) of this Section if the licensed entity is in
14 receivership.

15 (Source: P.A. 97-689, eff. 6-14-12; 97-1150, eff. 1-25-13.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law."