

1 AN ACT in relation to public aid.

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

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

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

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

9 (A) The Illinois Department may deny, suspend or
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
14 after reasonable notice and opportunity for a hearing the
15 Illinois Department finds:

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

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

1 are not reimbursed under this Code; or

2 (c) Such vendor has failed to furnish any
3 information requested by the Department regarding
4 payments for providing goods or services; or

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

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

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

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

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

1 the basis for that vendor's termination from
2 participation-in-the-medical-assistance-program; or

3 (3) was an officer, or person owning, either
4 directly or indirectly, 5% or more of the shares of
5 stock or other evidences of ownership in a
6 previously-terminated corporate vendor previously
7 terminated from participation in the Illinois
8 medical assistance program, or terminated from
9 participation in a medical assistance program in
10 another state that is of the same kind as the
11 program of medical assistance provided under Article

12 V of this Code, during the time of conduct which was
13 the basis for that vendor's termination from
14 participation-in-the-medical-assistance-program; or

15 (4) was an owner of a sole proprietorship or
16 partner of a partnership which--was previously
17 terminated from participation in the Illinois
18 medical assistance program, or terminated from
19 participation in a medical assistance program in
20 another state that is of the same kind as the
21 program of medical assistance provided under Article

22 V of this Code, during the time of conduct which was
23 the basis for that vendor's termination from
24 participation-in-the-medical-assistance-program; or

25 (g) The vendor; a person with management
26 responsibility for a vendor; an officer or person owning,
27 either directly or indirectly, 5% or more of the shares
28 of stock or other evidences of ownership in a corporate
29 vendor; an owner of a sole proprietorship which is a
30 vendor; or a partner in a partnership which is a vendor,
31 either:

32 (1) has engaged in practices prohibited by
33 applicable federal or State law or regulation
34 relating to the medical assistance program; or

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

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

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

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

27 (A-5) The Illinois Department may deny, suspend, or
 28 terminate the eligibility of any person, firm, corporation,
 29 association, agency, institution, or other legal entity to
 30 participate as a vendor of goods or services to recipients
 31 under the medical assistance program under Article V if,
 32 after reasonable notice and opportunity for a hearing, the
 33 Illinois Department finds that the vendor; a person with
 34 management responsibility for a vendor; an officer or person

1 owning, either directly or indirectly, 5% or more of the
 2 shares of stock or other evidences of ownership in a
 3 corporate vendor; an owner of a sole proprietorship that is a
 4 vendor; or a partner in a partnership that is a vendor has
 5 been convicted of a felony offense based on fraud or willful
 6 misrepresentation related to any of the following:

7 (1) The medical assistance program under Article V
 8 of this Code.

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

12 (3) The Medicare program under Title XVIII of the
 13 Social Security Act.

14 (4) The provision of health care services.

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

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

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

25 (3) if such vendor has been convicted of a
 26 violation of this Code, as provided in Article VIIIA.

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

33 Upon termination of a corporate vendor, the officers and
 34 persons owning, directly or indirectly, 5% or more of the

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

11 Upon termination of a sole proprietorship or partnership,
12 the owner or partners during the time of any conduct which
13 served as the basis for that vendor's termination are barred
14 from participation in the medical assistance program. The
15 owner of a terminated vendor that is a sole proprietorship,
16 and a partner in a terminated vendor that is a partnership,
17 may not transfer his or her ownership or partnership 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 Rules adopted by the Illinois Department to implement
22 these provisions shall specifically include a definition of
23 the term "management responsibility" as used in this Section.
24 Such definition shall include, but not be limited to, typical
25 job titles, and duties and descriptions which will be
26 considered as within the definition of individuals with
27 management responsibility for a provider.

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

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

5 If a vendor has been terminated from the medical
6 assistance program under Article V, such vendor shall be
7 barred from participation for at least one year. At the end
8 of one year a vendor who has been terminated may apply for
9 reinstatement to the program. Upon proper application to be
10 reinstated such vendor may be deemed eligible by the Director
11 providing that such vendor meets the requirements for
12 eligibility under this Code Act. If such vendor is deemed
13 not eligible for reinstatement, he shall be barred from again
14 applying for reinstatement for one year from the date his
15 application for reinstatement is denied.

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

26 If a vendor has been terminated and reinstated to the
27 medical assistance program under Article V and the vendor is
28 terminated a second or subsequent time from the medical
29 assistance program, the vendor shall be barred from
30 participation for at least 2 years. At the end of 2 years, a
31 vendor who has been terminated may apply for reinstatement to
32 the program. Upon application to be reinstated, the vendor
33 may be deemed eligible if the vendor meets the requirements
34 for eligibility under this Code. If the vendor is deemed not

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

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

8 (F) The Illinois Department may withhold payments to any
9 vendor during the pendency of any proceeding under this
10 Section except that if a final administrative decision has
11 not been issued within 120 days of the initiation of such
12 proceedings, unless delay has been caused by the vendor,
13 payments can no longer be withheld, provided, however, that
14 the 120 day limit may be extended if said extension is
15 mutually agreed to by the Illinois Department and the vendor.
16 The Illinois Department shall state by rule with as much
17 specificity as practicable the conditions under which
18 payments will not be withheld during the pendency of any
19 proceeding under this Section. Payments may be denied for
20 bills submitted with service dates occurring during the
21 pendency of a proceeding where the final administrative
22 decision is to terminate eligibility to participate in the
23 medical assistance program. The Illinois Department shall
24 state by rule with as much specificity as practicable the
25 conditions under which payments will not be denied for such
26 bills.

27 (F-5) The Illinois Department may temporarily withhold
28 payments to a vendor if any of the following individuals
29 have been indicted or otherwise charged under a law of the
30 United States or this or any other state with a felony
31 offense that is based on alleged fraud or willful
32 misrepresentation on the part of the individual related to
33 (i) the medical assistance program under Article V of this
34 Code, (ii) a medical assistance program provided in another

1 state which is of the kind provided under Article V of this
2 Code, (iii) the Medicare program under Title XVIII of the
3 Social Security Act, or (iv) the provision of health care
4 services:

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

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

11 (3) If the vendor is a partnership: a partner in the
12 partnership.

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

18 If the Illinois Department withholds payments to a vendor
19 under this subsection, the Department shall not release
20 those payments to the vendor while any criminal proceeding
21 related to the indictment or charge is pending unless the
22 Department determines that there is good cause to release the
23 payments before completion of the proceeding. If the
24 indictment or charge results in the individual's conviction,
25 the Illinois Department shall retain all withheld payments,
26 which shall be considered forfeited to the Department. If
27 the indictment or charge does not result in the individual's
28 conviction, the Illinois Department shall release to the
29 vendor all withheld payments.

30 (G) The provisions of the Administrative Review Law, as
31 now or hereafter amended, and the rules adopted pursuant
32 thereto, shall apply to and govern all proceedings for the
33 judicial review of final administrative decisions of the
34 Illinois Department under this Section. The term

1 "administrative decision" is defined as in Section 3-101 of
2 the Code of Civil Procedure.

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

6 (I) Based on a finding of noncompliance on the part of a
7 nursing home with any requirement for certification under
8 Title XVIII or XIX of the Social Security Act (42 U.S.C. Sec.
9 1395 et seq. or 42 U.S.C. Sec. 1396 et seq.), the Illinois
10 Department may impose one or more of the following remedies
11 after notice to the facility:

- 12 (1) Termination of the provider agreement.
- 13 (2) Temporary management.
- 14 (3) Denial of payment for new admissions.
- 15 (4) Civil money penalties.
- 16 (5) Closure of the facility in emergency situations
17 or transfer of residents, or both.
- 18 (6) State monitoring.
- 19 (7) Denial of all payments when the Health Care
20 Finance Administration has imposed this sanction.

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

32 Except in the case of a facility that has a right to a
33 hearing on the finding of noncompliance before an agency of
34 the federal government, a facility may request a hearing

1 before a State agency on any finding of noncompliance within
2 60 days after the notice of the intent to impose a remedy.
3 Except in the case of civil money penalties, a request for a
4 hearing shall not delay imposition of the penalty. The
5 choice of remedies is not appealable at a hearing. The level
6 of noncompliance may be challenged only in the case of a
7 civil money penalty. The Illinois Department shall provide
8 by rule for the State agency that will conduct the
9 evidentiary hearings.

10 The Illinois Department may collect interest on unpaid
11 civil money penalties.

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

14 (Source: P.A. 89-21, eff. 1-1-96; 90-725, eff. 8-7-98.)

15 Section 99. Effective date. This Act takes effect on
16 January 1, 2002.