**Section 104.74 Surety Bonds**

a) Effective July 1, 2012, the following individuals and entities may be required to post a surety bond as part of a condition of enrollment or participation in the Medical Assistance Program:

1) a vendor or a prior vendor who has been terminated, excluded or suspended from the Medical Assistance Program, or from another state or federal medical assistance or health care program;

2) any individual currently or previously barred from the Medical Assistance Program, or from another state or federal medical assistance or health care program, as a result of being an officer or a person owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate or limited liability company vendor during the time of any conduct that served as the basis for that vendor's termination, suspension or exclusion;

3) a vendor or a prior vendor who has a debt owed to the Department;

4) any individual currently or previously barred from the Medical Assistance Program, or from another state or federal medical assistance or health care program, as a result of being an officer or a person owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in that corporate or limited liability company vendor who has a debt owed to the Department, when the individual was in that position during the time of any conduct that served as the basis for the vendor's debt; or

5) vendors, individuals or entities that demonstrated previous poor performance or conduct who pose a risk of fraud, waste, abuse or harm, as defined in 89 Ill. Adm. Code 140.13.

b) When required by the Department, the value of surety bond shall be based on:

1) the potential for loss to the Department;

2) the value of claims historically submitted by the individual or entity to the Department, or to another state or federal medical assistance or health care program;

3) the previous performance and conduct of the individual or entity; and

4) when a debt is owed the Department, the amount of the debt.

c) As used in this Section, "surety bond" means a bond executed by the individual or entity for enrollment or participation in the Medical Assistance Program and a person or firm authorized to conduct surety business in Illinois that obligates the guarantor to pay the Department or its designee upon default by the individual or entity in the performance of any duty the individual or entity owes to the Department or a third party.

### (Source: Added at 37 Ill. Reg.\_\_\_\_\_, effective 10172\_\_\_\_\_\_\_\_\_)