**Section 104.235 Discovery**

a) There shall be no discovery under this Part except for the following items if relevant to the case:

1) The Department shall provide, upon request, to the vendor:

A) lists of witnesses;

B) the provider detail report, the drug inventory report, the claim detail report, if applicable;

C) in actions against a nursing home based upon Department of Public Health surveys, all surveys that federal or State regulations require surveyors to complete during the investigation;

D) transcripts of that portion of peer review committee proceedings wherein the vendor appears, not including the committee's deliberations, if applicable;

E) resolutions of a peer review committee regarding the vendor, if applicable;

F) any report regarding the vendor prepared by the Bureau of Medicaid Integrity's medical consultant witness, if applicable; and

G) any exhibits or documents that may be identified at hearing.

2) The Department shall provide, upon request, to the alternate payee:

A) lists of witnesses;

B) the provider detail report and the claim detail report, if applicable; and

C) any exhibits or documents that may be identified at hearing.

3) The vendor and/or alternate payee shall provide, upon request, to the Department:

A) a list of witnesses and all reports written by each witness concerning the issue about which he or she is testifying; and

B) a copy of exhibits and documents that may be identified at hearing.

b) Requests for discovery shall be made no later than the 21st day after receipt of the notice described in Sections 104.204 and 104.206 through 104.208, or request of a hearing described in Section 104.205(e), or no later than the 21st day after amendment, pursuant to Section 104.241, of the grounds for the action that would make discovery of any of the items listed in subsection (a) relevant for the first time.

c) Discovery is to be provided to the requesting party within 21 days after service of a request. In no event shall a scheduled hearing be continued because of an untimely discovery request without good cause having been shown.

d) Each party has a duty to seasonably supplement its witness list and documentary evidence that may be used at hearing. The administrative law judge may exclude witnesses or evidence absent a showing of good cause as to why the discovery was not tendered in response to the original discovery request.

(Source: Amended at 37 Ill. Reg. 12838, effective July 24, 2013)