**Section 140.14 Denial of Application to Participate in the Medical Assistance Program**

a) The Department may deny an application to participate in the Medical Assistance Program if the vendor has engaged in activities which constitute grounds for termination, suspension or exclusion under Section 140.16. If the activities were engaged in prior to December 1, 1977, they may be used as the basis for denial of an application only if the vendor had actual or constructive knowledge of the requirements which applied to his conduct or activities.

b) Denial of Application

1) The Department may deny an application submitted by a vendor if:

A) the vendor cannot reasonably be expected to meet the written requirements of the Department including those set forth in the Medical Assistance Program Handbooks and the Department's manuals, bulletins and releases; or

B) the Department determines, after reviewing the activities that served as the basis for the earlier termination or barring, that the application should not be approved. Factors to be considered by the Department in making this determination shall include:

i) length of time the vendor has not participated in the Medical Assistance Program;

ii) magnitude and severity of the activities that led to the binding administrative decision which served as the basis for the vendor's termination, barring or denied participation;

iii) mitigating circumstances presented by the vendor;

iv) whether the deficiencies that served as the basis for the vendor to be terminated, barred or denied participation are corrected;

v) whether the vendor demonstrates a fitness to participate in the Medical Assistance Program; and

vi) the extent to which any legally enforceable debts owed to the Department by the applicant or an entity in which the applicant or his or her nominee held a substantial ownership interest have been paid.

2) These factors must be established by submission of documentary evidence in support of the application.

c) The Department may deny an application of a previously terminated or barred applicant if the applicant, without special permission from the Department, has already become a vendor, an entity with management responsibility for a vendor, an incorporator, officer or member of the board of directors of a vendor, an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor, an owner of a sole proprietorship vendor, a partner in a partnership vendor, a technical or other advisor to a vendor, or an investor in a vendor.

d) Effective July 1, 2012, the Department shall deny an application to participate in the Medical Assistance Program of any person, firm, corporation, association, agency, institution or other legal entity:

1) immediately, if the vendor is not properly licensed, certified or authorized;

2) within 30 days after the date when the vendor's professional license, certification or other authorization has been refused renewal, restricted or revoked, suspended or otherwise terminated; or

3) if the vendor has been convicted of a violation of the Public Aid Code, as provided in Article VIIIA of the Code.

e) Effective July 1, 2012, the Department may deny the eligibility of any person, firm, corporation, association, agency, institution or other legal entity to participate as a vendor if, after reasonable notice and opportunity for a hearing, the Department finds:

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

2) The applicant or any person with management responsibility for the applicant; an officer or member of the board of directors of an applicant; an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor applicant; an owner of a sole proprietorship applicant; a partner in a partnership vendor applicant; or a technical or other advisor to an applicant, during a period of time when the conduct of that vendor resulted in a debt owed to the Department and no payment arrangements acceptable to the Department have been made by that vendor, was:

A) a person with management responsibility;

B) an officer or member of the board of directors of an applicant;

C) an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor;

D) an owner of a sole proprietorship;

E) a partner in a partnership vendor; or

F) a technical or other advisor to a vendor.

3) There is a credible allegation, as defined in Section 140.13, of the use, transfer or lease of assets of any kind to an applicant from a current or prior vendor who has a debt owed to the Department, no payment arrangements acceptable to the Department have been made by that vendor or the vendor's alternate payee, and the applicant knows or should have known of the debt.

4) There is a credible allegation of a transfer of management responsibilities, or direct or indirect ownership, to an applicant from a current or prior vendor who has debt owed to the Department, and no payment arrangements acceptable to the Department have been made by the vendor or the vendor's alternate payee, and the applicant knows or should have known of the debt.

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

6) There is a credible allegation that the applicant's previous affiliations with a provider of medical services that has an uncollected debt, a provider that has been or is subject to a payment suspension under a federal health care program, or a provider that has been previously excluded from participation in the Medical Assistance Program, poses a risk of fraud, waste or abuse to the Department.

(Source: Amended at 37 Ill. Reg. 10282, effective June 27, 2013)