**Section 140.32 Prohibition on Participation, and Special Permission for Participation**

a) Prohibition on Participation by Terminated, Suspended, Excluded or Barred Entities

1) Upon being terminated, suspended, excluded or barred, and while the disability from Medical Assistance Program participation remains in effect, an entity:

A) Cannot be a vendor, assume management responsibility for a vendor, own (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership of a corporate vendor, become an owner of a sole proprietorship that is a vendor, become a partner of a vendor or become an officer of a corporate vendor;

B) Cannot be an employer of a vendor; a person with management responsibility for an employer of a vendor; an officer of an employer of a vendor; an entity owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in an employer of a vendor; an owner of a sole proprietorship that employs a vendor; or a partner of a partnership that employs a vendor;

C) Cannot order goods or services from a vendor when payment for such goods or services will be made in whole or in part by the Department;

D) Cannot render goods or services as an employee of a vendor or as an independent contractor with a vendor for which payment will be made in whole or in part by the Department;

E) Cannot, directly or indirectly, serve as a technical or other advisor to a vendor;

F) Cannot, directly or indirectly, be an incorporator or member of the board of directors of a vendor;

G) Cannot, directly or indirectly, be an investor in a vendor; and

H) Cannot own (directly or indirectly) a 5% or greater interest in any premises or equipment leased by a vendor.

2) An individual who is terminated or barred from participation in the Medical Assistance Program cannot transfer the direct or indirect ownership of a vendor (including the ownership of a vendor that is a sole proprietorship, a partner's interest in a vendor that is a partnership, or ownership of 5% or more of the shares of stock or other evidences of ownership in a vendor) to the individual's spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

3) Effective July 1, 2012, a person who owns, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate or limited liability company vendor who owes a debt to the Department, if that vendor has not made payment arrangements acceptable to the Department, shall not transfer his or her ownership interest in that vendor, or vendor assets of any kind, to his or her spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin or relative by marriage.

4) After the provision of written notice to the affected parties, the Department may deny payment for goods or services rendered or ordered by an entity that violates the provisions of subsection (a)(1)(A), (B), (C) or (D). The Department may also pursue the imposition of all criminal and civil penalties as may be available and necessary.

5) Whenever an entity violates the provisions of subsection (a)(1)(E), (F), (G) or (H) the Department may refer the matter for filing of an appropriate civil suit by the Attorney General or the State's Attorney to recover all benefits obtained improperly as well as treble damages or $10,000.00 for each such violation whichever amount is greater, in accordance with Section 11-27 of the Public Aid Code.

b) Special Permission for Continuation or Reinstatement of Medical Assistance Program Participation for Barred Entities

1) Any entity barred pursuant to Section 140.18 may seek special permission to continue participation in the Medical Assistance Program or for reinstatement in the Program.

2) Special permission shall be granted only if the entity seeking such action demonstrates to the Department that it had no part in, and no knowledge of, the conduct which led to the decision to terminate upon which the barring was based or that it had no part in, and notified the Department as soon as it gained knowledge of, the conduct.

3) In deciding whether to authorize the continued participation by, or reinstatement of, an entity that meets the conditions of this subsection (b) the Director shall consider the following factors:

A) Whether the entity requesting special permission demonstrates a fitness to participate in the Medical Assistance Program;

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

C) Any other circumstances reasonably related to the issue of whether the special permission should be granted.

4) Any entity that seeks special permission to continue or reinstate benefits shall submit a written request to the Director. Upon receipt of such a request, the Director or his designee shall review the request and any supporting documentation which accompanies it, and shall notify the entity of the decision within 60 days after receipt of the request, where practicable. In reviewing the request, the Director may require the entity to appear before and cooperate with a peer review committee of the Department.

5) An entity may request special permission only once. An entity that has been denied special permission may not apply for readmission under Section 140.14 for one year after the final decision to deny special permission. An entity that has been denied readmission under Section 140.14 or has an application under Section 140.14 pending with the Department may not apply for special permission.

6) Whenever a barred entity is readmitted to the Medical Assistance Program pursuant to this Section, the Director may make the vendor's continued participation contingent upon compliance with specified restrictions, including, but not limited to:

A) Limiting the participation by the entity as to the location, type, volume or category of goods or services to be provided;

B) Requiring that the entity obtain continuing education, or additional licenses or authorizations; and

C) Any other terms or conditions which may be appropriate or required under the circumstances.

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