**Section 140.44 Withholding of Payments Due to Fraud or Misrepresentation**

a) Effective July 1, 2012, payments on pending and subsequently submitted bills may be withheld, in whole or in part, to a provider or alternate payee, when there is credible evidence from State or federal law enforcement or federal oversight agencies or from the results of a preliminary Department audit that the circumstances giving rise to the need for a withholding of payments may involve fraud or willful misrepresentation under the Illinois Medical Assistance Program. Payments may be withheld without first notifying the provider or alternate payee of its intention to withhold the payments.

b) The Department must send notice of its withholding within 5 days after taking that action. The notice must set forth the general allegations as to the nature of the withholding, but need not disclose any specific information concerning the ongoing investigation. The notice must also state the following:

1) The payments are being withheld in accordance with Section 12-4.25(K) of the Public Aid Code.

2) The withholding is for a temporary period; the notice shall cite the circumstances under which withholding will be terminated.

3) When appropriate, the type of claim for which withholding is effective.

4) The provider or alternate payee has the right to submit written evidence for reconsideration of the withholding of payments by the Department.

5) A written request may be made to the Department for full or partial release of withheld payments and the request may be made at any time after the Department first withholds the payments.

c) All withholding of payment actions under this Section shall be temporary and shall not continue after any of the following:

1) The Department or the prosecuting authorities determine that there is insufficient evidence of fraud or willful misrepresentation by the provider or alternate payee.

2) Legal proceedings related to the provider's or alternate payee's alleged fraud, willful misrepresentation, or violations of Article V of the Illinois Public Aid Code or violations of 89 Ill. Adm. Code: Chapter I are completed. If the Department commences an administrative proceeding that seeks the termination of the provider or revocation of the alternate payee, withholding will continue in conformance with 89 Ill. Adm. Code 104.272.

3) The withholding of payments for a period of 3 years.

d) The provider or alternate payee request for reconsideration of payment withholding, or request for full or partial release of payments withheld, must be in writing, set out the reasons for the request, and be sent to the Department's Office of Inspector General at 2200 Churchill Road, A-1, Springfield, Illinois 62702, or by e-mail to HFS.OIGWebmaster@illinois.gov. The request may include documentation that the allegations of fraud or willful misrepresentation involving the Medical Assistance Program did not take place.

e) Partial or full release of payments on pending and subsequently submitted bills may be granted, at the discretion of the Inspector General of the Department, when it is in the best interest of the recipients of medical assistance. This may include, but not be limited to, access to medical services for recipients or the potential movement of patients from long term care settings.

(Source: Amended at 42 Ill. Reg. 14383, effective July 23, 2018)