**Section 140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible Allegation of Fraud or Failure to Cooperate**

a) Effective July 1, 2012, the Department may withhold payments, in whole or in part, to a provider or alternate payee upon:

1) initiation of an audit;

2) quality of care review;

3) investigation in which there is a credible allegation of fraud; or

4) the provider or alternate payee is demonstrating a clear failure to cooperate with the Department, giving rise to the need for a withholding of payments.

b) The Department may withhold payments without first notifying the provider or alternate payee of its intention to withhold payments.

c) A provider or alternate payee may request a hearing or a reconsideration of payment withholding, and the Department must grant the request.

d) The Department must send notice of its withholding of payments within five days after taking the action. The notice shall:

1) Set forth the general allegation as to the nature of the withholding action; however, the notice need not disclose any specific information concerning an ongoing investigation.

2) State that payments are being withheld in accordance with Section 12‑4.25(K-5) of the Code.

3) State that the withholding is for a temporary period, as specified in subsection (g), and cite the circumstances under which withholding will be terminated.

4) Specify, when appropriate, which type or types of claims are withheld.

5) Inform the provider or alternate payee of the right to request a hearing or a reconsideration of the withholding by the Department, including the ability to submit written evidence.

6) Inform the provider or alternate payee that a written request may be made to the Department for a hearing or reconsideration for the full or partial release of withheld payments and that such requests may be made at any time after the Department first withholds payments.

e) A provider or alternate payee may request reconsideration of payment withholding for the purpose of a full or partial release of payments withheld pursuant to Section 12-4.25(K-5) of the Code. The provider or alternate payee shall submit a written request for reconsideration and the reasons for the reconsideration to the Department's Inspector General at:

Office of Inspector General

404 North Fifth Street

Springfield, Illinois 62706

Or by e-mail to: HFS.OIGWebmaster@illinois.gov.

1) The request may include documentation to contest a credible allegation of fraud or failure to cooperate with the Department.

2) Partial or full release of payments on pending and subsequently submitted bills may be granted, at the discretion of the Inspector General, when it is in the best interest of Medical Assistance Program recipients. Factors in this decision may include, but are not limited to, recipients' access to medical services or the potential transport of patients from long term care settings.

f) A provider or alternate payee may request a hearing on the issue of a withholding of payments pursuant to Section 12-4.25(K-5) of the Code. The only issue at hearing will be whether a partial or full release of funds is properly based on the following factors:

1) Whether there is a credible allegation of fraud;

2) Whether the provider or alternate payee demonstrated a clear failure to cooperate with the Department, giving rise to the need for a withholding of payments;

3) Whether a release is in the best interest of the recipients of medical assistance based on access to medical services for recipients; and

4) The potential movement of patients from long term care settings.

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

1) The Department determines that there is insufficient evidence of fraud, or the provider or alternate payee demonstrates clear cooperation with the Department, as determined by the Department, so that the circumstances do not give rise to the need for withholding of payments; or

2) the withholding of payments has lasted for a period in excess of three years.

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