**Section 104.244 Burden of Proof**

a) Effective July 1, 2012, the burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.14 shall be on the Department if the application was denied because the vendor engaged in activities that constitute grounds for termination or was denied pursuant to 89 Ill. Adm. Code 140.14(c). The burden of proof shall be on the applicant if the application was denied because of:

1) a determination that a previously terminated or barred vendor cannot reasonably be expected to meet the requirements of the Department;

2) a determination that, based on the activities that served as the basis for terminating or barring a vendor, the application should not be approved; or

3) denial of the eligibility of the applicant pursuant to 89 Ill. Adm. Code 140.14(e).

b) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.15 or Subpart D of this Part shall be on the Department.

c) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.16 shall be on the Department.

d) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.32 shall be on the party seeking special permission, and in hearings conducted pursuant to 89 Ill. Adm. Code 140.19(b) shall be on the vendor.

e) In the case of any new matter introduced in connection with any affirmative defense, the burden of proof with respect to that new matter shall be upon the party that alleges the new matter.

f) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.491(j) shall be on the Ground Ambulance Service Provider.

g) The standard of proof with respect to all hearings conducted pursuant to this Part shall be a preponderance of the evidence.

(Source: Expedited correction at 37 Ill. Reg. 16034, effective July 24, 2013)