**Section 146.280 Non-Compliance Action**

a) The Department may terminate or suspend or not renew a provider agreement subject to the provisions of 89 Ill. Adm. Code 140.16.

b) In the event that the SLF is found to be out of compliance with certification requirements during any on-site review or investigation conducted by the Department, the following procedures shall be used based on whether the non-compliance is determined to result in immediate jeopardy or non-immediate jeopardy.

c) Non-Compliance Involving Immediate Jeopardy

1) In the event that it is determined that the findings of non-compliance result in immediate jeopardy that poses a current risk to the health and safety of the residents, Department staff shall notify the SLF of the non-compliance and Department staff may stay on-site until the area or areas of non-compliance have been abated.

2) For non-compliance involving immediate jeopardy where health and safety of residents is not currently at risk, the Department shall provide a written notice to the SLF within five working days after the conclusion of the on-site review.

3) The SLF shall have five calendar days from receipt of the written notice to refute the findings or submit a plan of correction.

4) If no refutation is submitted, the SLF shall have ten calendar days from receipt of the written notice to correct the non-compliance issue or issues. No extension of the ten day period shall be granted.

5) If a refutation is submitted, the ten day correction period is stayed until a Department decision is made.

6) Department staff shall conduct a follow-up review within ten working days after the conclusion of the ten day correction period to verify compliance. If the follow-up review continues to show the potential for immediate jeopardy, the Department shall take action to suspend or terminate the SLF's provider agreement.

d) Non-Compliance Not Involving Immediate Jeopardy

1) The Department shall provide a written notice to the SLF within ten working days after the conclusion of the on-site review.

2) The SLF shall have 14 calendar days from receipt of the written notice to refute the findings or submit a plan of correction.

3) If no refutation is submitted, the SLF shall have 30 calendar days from receipt of the written notice to correct the non-compliance issue or issues.

4) If a refutation is submitted, the 30 day correction period is stayed until a Department decision is made.

5) The SLF shall provide a written notice to the Department, within 30 days after the date of the Departmental notice of non-compliance, notifying the Department that the non-compliance issue or issues are corrected or requesting an extension of the 30-day period to a specific date, along with any explanation or documentation necessary to justify the extension.

6) The Department shall provide a written decision to the SLF within ten working days after receipt of the request to extend the 30-day correction period.

7) If the first 30 day follow-up review continues to show non-compliance, the facility may be granted a second 30-day period to correct the non-compliance issues.

8) Department staff shall conduct a follow-up review within ten working days after the conclusion of the 30- and/or 60-day correction period to verify compliance.

9) If subsequent reviews continue to show non-compliance with previously cited issues, the Department shall take action to apply one or more of the following sanctions, at the Department's sole discretion, depending on the severity of the non-compliance. Continued non-compliance may result in the Department issuing additional sanctions:

A) placing a hold on payment for new admissions;

B) withholding Medicaid payments;

C) directing in-service training;

D) directing a plan of correction.

10) The SLF shall have 30 days from the date of the letter from the Department imposing sanctions to correct the findings of non-compliance. If a follow-up review finds that the SLF remains out of compliance, additional sanctions may be issued. The SLF shall have 30 days to correct the findings of non-compliance after the imposition of each sanction.

11) If the SLF wishes to refute the Department's findings of non-compliance after sanctions have been imposed, written comments with any supporting documentation shall be sent to the Department within 30 days after the date of the letter sent from the Department imposing sanctions. If the SLF believes it has corrected the issues of non-compliance, it may request an on-site review. If the review indicates the findings have been corrected, the sanction or sanctions will be rescinded.

12) If subsequent follow-up reviews continue to show non-compliance, the Department may take action to suspend or terminate the SLF's provider agreement.

e) Suspension or Termination of Provider Agreement

1) In the event the Department does not impose a sanction to withhold Medicaid payments pursuant to subsection (d)(6) of this Section, the Department will continue to make payments during the pendency of the administrative proceedings for suspension or termination of the provider agreement set forth in 89 Ill. Adm. Code 104.208 until a final administrative decision terminating or suspending the provider agreement is issued. If a final administrative decision terminating or suspending the provider agreement is issued, payments for services rendered will cease as of the date the decision is issued, and shall recommence only when the SLF is recertified as being in compliance with program requirements.

2) In the event the Department does not initially impose a hold on private pay and Medicaid admissions pursuant to subsection (d)(6)(A) of this Section, the SLF shall not admit any new private pay or Medicaid residents during the pendency of any administrative proceedings for suspension or termination of the provider agreement set forth in 89 Ill. Adm. Code 104.208. If a final administrative decision terminating or suspending the provider agreement is issued, new admissions may recommence only when the SLF is recertified as being in compliance with program requirements.

3) Upon termination of the SLF provider agreement, Department payments will continue for no more than 30 days after the date of termination to ensure a smooth transition of residents to other settings.

(Source: Amended at 33 Ill. Reg. 11803, effective August 1, 2009)