

1 AN ACT in relation to public aid.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Sections 5-5 and 12-4.25 as follows:

6 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

7 Sec. 5-5. Medical services. The Illinois Department, by
8 rule, shall determine the quantity and quality of and the
9 rate of reimbursement for the medical assistance for which
10 payment will be authorized, and the medical services to be
11 provided, which may include all or part of the following: (1)
12 inpatient hospital services; (2) outpatient hospital
13 services; (3) other laboratory and X-ray services; (4)
14 skilled nursing home services; (5) physicians' services
15 whether furnished in the office, the patient's home, a
16 hospital, a skilled nursing home, or elsewhere; (6) medical
17 care, or any other type of remedial care furnished by
18 licensed practitioners; (7) home health care services; (8)
19 private duty nursing service; (9) clinic services; (10)
20 dental services; (11) physical therapy and related services;
21 (12) prescribed drugs, dentures, and prosthetic devices; and
22 eyeglasses prescribed by a physician skilled in the diseases
23 of the eye, or by an optometrist, whichever the person may
24 select; (13) other diagnostic, screening, preventive, and
25 rehabilitative services; (14) transportation and such other
26 expenses as may be necessary; (15) medical treatment of
27 sexual assault survivors, as defined in Section 1a of the
28 Sexual Assault Survivors Emergency Treatment Act, for
29 injuries sustained as a result of the sexual assault,
30 including examinations and laboratory tests to discover
31 evidence which may be used in criminal proceedings arising

1 from the sexual assault; (16) the diagnosis and treatment of
2 sickle cell anemia; and (17) any other medical care, and any
3 other type of remedial care recognized under the laws of this
4 State, but not including abortions, or induced miscarriages
5 or premature births, unless, in the opinion of a physician,
6 such procedures are necessary for the preservation of the
7 life of the woman seeking such treatment, or except an
8 induced premature birth intended to produce a live viable
9 child and such procedure is necessary for the health of the
10 mother or her unborn child. The Illinois Department, by rule,
11 shall prohibit any physician from providing medical
12 assistance to anyone eligible therefor under this Code where
13 such physician has been found guilty of performing an
14 abortion procedure in a wilful and wanton manner upon a woman
15 who was not pregnant at the time such abortion procedure was
16 performed. The term "any other type of remedial care" shall
17 include nursing care and nursing home service for persons who
18 rely on treatment by spiritual means alone through prayer for
19 healing.

20 Notwithstanding any other provision of this Section, a
21 comprehensive tobacco use cessation program that includes
22 purchasing prescription drugs or prescription medical devices
23 approved by the Food and Drug administration shall be covered
24 under the medical assistance program under this Article for
25 persons who are otherwise eligible for assistance under this
26 Article.

27 Notwithstanding any other provision of this Code, the
28 Illinois Department may not require, as a condition of
29 payment for any laboratory test authorized under this
30 Article, that a physician's handwritten signature appear on
31 the laboratory test order form. The Illinois Department may,
32 however, impose other appropriate requirements regarding
33 laboratory test order documentation.

34 The Illinois Department of Public Aid shall provide the

1 following services to persons eligible for assistance under
2 this Article who are participating in education, training or
3 employment programs operated by the Department of Human
4 Services as successor to the Department of Public Aid:

5 (1) dental services, which shall include but not be
6 limited to prosthodontics; and

7 (2) eyeglasses prescribed by a physician skilled in
8 the diseases of the eye, or by an optometrist, whichever
9 the person may select.

10 The Illinois Department, by rule, may distinguish and
11 classify the medical services to be provided only in
12 accordance with the classes of persons designated in Section
13 5-2.

14 The Illinois Department shall authorize the provision of,
15 and shall authorize payment for, screening by low-dose
16 mammography for the presence of occult breast cancer for
17 women 35 years of age or older who are eligible for medical
18 assistance under this Article, as follows: a baseline
19 mammogram for women 35 to 39 years of age and an annual
20 mammogram for women 40 years of age or older. All screenings
21 shall include a physical breast exam, instruction on
22 self-examination and information regarding the frequency of
23 self-examination and its value as a preventative tool. As
24 used in this Section, "low-dose mammography" means the x-ray
25 examination of the breast using equipment dedicated
26 specifically for mammography, including the x-ray tube,
27 filter, compression device, image receptor, and cassettes,
28 with an average radiation exposure delivery of less than one
29 rad mid-breast, with 2 views for each breast.

30 Any medical or health care provider shall immediately
31 recommend, to any pregnant woman who is being provided
32 prenatal services and is suspected of drug abuse or is
33 addicted as defined in the Alcoholism and Other Drug Abuse
34 and Dependency Act, referral to a local substance abuse

1 treatment provider licensed by the Department of Human
2 Services or to a licensed hospital which provides substance
3 abuse treatment services. The Department of Public Aid shall
4 assure coverage for the cost of treatment of the drug abuse
5 or addiction for pregnant recipients in accordance with the
6 Illinois Medicaid Program in conjunction with the Department
7 of Human Services.

8 All medical providers providing medical assistance to
9 pregnant women under this Code shall receive information from
10 the Department on the availability of services under the Drug
11 Free Families with a Future or any comparable program
12 providing case management services for addicted women,
13 including information on appropriate referrals for other
14 social services that may be needed by addicted women in
15 addition to treatment for addiction.

16 The Illinois Department, in cooperation with the
17 Departments of Human Services (as successor to the Department
18 of Alcoholism and Substance Abuse) and Public Health, through
19 a public awareness campaign, may provide information
20 concerning treatment for alcoholism and drug abuse and
21 addiction, prenatal health care, and other pertinent programs
22 directed at reducing the number of drug-affected infants born
23 to recipients of medical assistance.

24 Neither the Illinois Department of Public Aid nor the
25 Department of Human Services shall sanction the recipient
26 solely on the basis of her substance abuse.

27 The Illinois Department shall establish such regulations
28 governing the dispensing of health services under this
29 Article as it shall deem appropriate. In formulating these
30 regulations the Illinois Department shall consult with and
31 give substantial weight to the recommendations offered by the
32 Citizens Assembly/Council on Public Aid. The Department
33 should seek the advice of formal professional advisory
34 committees appointed by the Director of the Illinois

1 Department for the purpose of providing regular advice on
2 policy and administrative matters, information dissemination
3 and educational activities for medical and health care
4 providers, and consistency in procedures to the Illinois
5 Department.

6 The Illinois Department may develop and contract with
7 Partnerships of medical providers to arrange medical services
8 for persons eligible under Section 5-2 of this Code.
9 Implementation of this Section may be by demonstration
10 projects in certain geographic areas. The Partnership shall
11 be represented by a sponsor organization. The Department, by
12 rule, shall develop qualifications for sponsors of
13 Partnerships. Nothing in this Section shall be construed to
14 require that the sponsor organization be a medical
15 organization.

16 The sponsor must negotiate formal written contracts with
17 medical providers for physician services, inpatient and
18 outpatient hospital care, home health services, treatment for
19 alcoholism and substance abuse, and other services determined
20 necessary by the Illinois Department by rule for delivery by
21 Partnerships. Physician services must include prenatal and
22 obstetrical care. The Illinois Department shall reimburse
23 medical services delivered by Partnership providers to
24 clients in target areas according to provisions of this
25 Article and the Illinois Health Finance Reform Act, except
26 that:

27 (1) Physicians participating in a Partnership and
28 providing certain services, which shall be determined by
29 the Illinois Department, to persons in areas covered by
30 the Partnership may receive an additional surcharge for
31 such services.

32 (2) The Department may elect to consider and
33 negotiate financial incentives to encourage the
34 development of Partnerships and the efficient delivery of

1 medical care.

2 (3) Persons receiving medical services through
3 Partnerships may receive medical and case management
4 services above the level usually offered through the
5 medical assistance program.

6 Medical providers shall be required to meet certain
7 qualifications to participate in Partnerships to ensure the
8 delivery of high quality medical services. These
9 qualifications shall be determined by rule of the Illinois
10 Department and may be higher than qualifications for
11 participation in the medical assistance program. Partnership
12 sponsors may prescribe reasonable additional qualifications
13 for participation by medical providers, only with the prior
14 written approval of the Illinois Department.

15 Nothing in this Section shall limit the free choice of
16 practitioners, hospitals, and other providers of medical
17 services by clients. In order to ensure patient freedom of
18 choice, the Illinois Department shall immediately promulgate
19 all rules and take all other necessary actions so that
20 provided services may be accessed from therapeutically
21 certified optometrists to the full extent of the Illinois
22 Optometric Practice Act of 1987 without discriminating
23 between service providers.

24 The Department shall apply for a waiver from the United
25 States Health Care Financing Administration to allow for the
26 implementation of Partnerships under this Section.

27 The Illinois Department shall require health care
28 providers to maintain records that document the medical care
29 and services provided to recipients of Medical Assistance
30 under this Article. The Illinois Department shall require
31 health care providers to make available, when authorized by
32 the patient, in writing, the medical records in a timely
33 fashion to other health care providers who are treating or
34 serving persons eligible for Medical Assistance under this

1 Article. All dispensers of medical services shall be
2 required to maintain and retain business and professional
3 records sufficient to fully and accurately document the
4 nature, scope, details and receipt of the health care
5 provided to persons eligible for medical assistance under
6 this Code, in accordance with regulations promulgated by the
7 Illinois Department. The rules and regulations shall require
8 that proof of the receipt of prescription drugs, dentures,
9 prosthetic devices and eyeglasses by eligible persons under
10 this Section accompany each claim for reimbursement submitted
11 by the dispenser of such medical services. No such claims for
12 reimbursement shall be approved for payment by the Illinois
13 Department without such proof of receipt, unless the Illinois
14 Department shall have put into effect and shall be operating
15 a system of post-payment audit and review which shall, on a
16 sampling basis, be deemed adequate by the Illinois Department
17 to assure that such drugs, dentures, prosthetic devices and
18 eyeglasses for which payment is being made are actually being
19 received by eligible recipients. Within 90 days after the
20 effective date of this amendatory Act of 1984, the Illinois
21 Department shall establish a current list of acquisition
22 costs for all prosthetic devices and any other items
23 recognized as medical equipment and supplies reimbursable
24 under this Article and shall update such list on a quarterly
25 basis, except that the acquisition costs of all prescription
26 drugs shall be updated no less frequently than every 30 days
27 as required by Section 5-5.12.

28 The rules and regulations of the Illinois Department
29 shall require that a written statement including the required
30 opinion of a physician shall accompany any claim for
31 reimbursement for abortions, or induced miscarriages or
32 premature births. This statement shall indicate what
33 procedures were used in providing such medical services.

34 The Illinois Department shall require that all dispensers

1 of medical services, other than an individual practitioner or
2 group of practitioners, desiring to participate in the
3 Medical Assistance program established under this Article to
4 disclose all financial, beneficial, ownership, equity, surety
5 or other interests in any and all firms, corporations,
6 partnerships, associations, business enterprises, joint
7 ventures, agencies, institutions or other legal entities
8 providing any form of health care services in this State
9 under this Article.

10 The Illinois Department may require that all dispensers
11 of medical services desiring to participate in the medical
12 assistance program established under this Article disclose,
13 under such terms and conditions as the Illinois Department
14 may by rule establish, all inquiries from clients and
15 attorneys regarding medical bills paid by the Illinois
16 Department, which inquiries could indicate potential
17 existence of claims or liens for the Illinois Department.

18 Enrollment of a vendor that provides medical
19 transportation shall be conditional for 180 days. During that
20 time, the Department of Public Aid may terminate the vendor's
21 eligibility to participate in the medical assistance program
22 without cause. That termination of eligibility is not
23 subject to the notice and hearing requirements set forth in
24 Section 12-4.25.

25 The Illinois Department shall establish policies,
26 procedures, standards and criteria by rule for the
27 acquisition, repair and replacement of orthotic and
28 prosthetic devices and durable medical equipment. Such rules
29 shall provide, but not be limited to, the following services:
30 (1) immediate repair or replacement of such devices by
31 recipients without medical authorization; and (2) rental,
32 lease, purchase or lease-purchase of durable medical
33 equipment in a cost-effective manner, taking into
34 consideration the recipient's medical prognosis, the extent

1 of the recipient's needs, and the requirements and costs for
2 maintaining such equipment. Such rules shall enable a
3 recipient to temporarily acquire and use alternative or
4 substitute devices or equipment pending repairs or
5 replacements of any device or equipment previously authorized
6 for such recipient by the Department. Rules under clause (2)
7 above shall not provide for purchase or lease-purchase of
8 durable medical equipment or supplies used for the purpose of
9 oxygen delivery and respiratory care.

10 The Department shall execute, relative to the nursing
11 home prescreening project, written inter-agency agreements
12 with the Department of Human Services and the Department on
13 Aging, to effect the following: (i) intake procedures and
14 common eligibility criteria for those persons who are
15 receiving non-institutional services; and (ii) the
16 establishment and development of non-institutional services
17 in areas of the State where they are not currently available
18 or are undeveloped.

19 The Illinois Department shall develop and operate, in
20 cooperation with other State Departments and agencies and in
21 compliance with applicable federal laws and regulations,
22 appropriate and effective systems of health care evaluation
23 and programs for monitoring of utilization of health care
24 services and facilities, as it affects persons eligible for
25 medical assistance under this Code. The Illinois Department
26 shall report regularly the results of the operation of such
27 systems and programs to the Citizens Assembly/Council on
28 Public Aid to enable the Committee to ensure, from time to
29 time, that these programs are effective and meaningful.

30 The Illinois Department shall report annually to the
31 General Assembly, no later than the second Friday in April of
32 1979 and each year thereafter, in regard to:

33 (a) actual statistics and trends in utilization of
34 medical services by public aid recipients;

1 (b) actual statistics and trends in the provision
2 of the various medical services by medical vendors;

3 (c) current rate structures and proposed changes in
4 those rate structures for the various medical vendors;
5 and

6 (d) efforts at utilization review and control by
7 the Illinois Department.

8 The period covered by each report shall be the 3 years
9 ending on the June 30 prior to the report. The report shall
10 include suggested legislation for consideration by the
11 General Assembly. The filing of one copy of the report with
12 the Speaker, one copy with the Minority Leader and one copy
13 with the Clerk of the House of Representatives, one copy with
14 the President, one copy with the Minority Leader and one copy
15 with the Secretary of the Senate, one copy with the
16 Legislative Research Unit, such additional copies with the
17 State Government Report Distribution Center for the General
18 Assembly as is required under paragraph (t) of Section 7 of
19 the State Library Act and one copy with the Citizens
20 Assembly/Council on Public Aid or its successor shall be
21 deemed sufficient to comply with this Section.

22 (Source: P.A. 91-344, eff. 1-1-00; 91-462, eff. 8-6-99;
23 91-666, eff. 12-22-99; 92-16, eff. 6-28-01; revised
24 12-13-01.)

25 (305 ILCS 5/12-4.25) (from Ch. 23, par. 12-4.25)

26 Sec. 12-4.25. Medical assistance program; vendor
27 participation.

28 (A) The Illinois Department may deny, suspend or
29 terminate the eligibility of any person, firm, corporation,
30 association, agency, institution or other legal entity to
31 participate as a vendor of goods or services to recipients
32 under the medical assistance program under Article V, if
33 after reasonable notice and opportunity for a hearing the

1 Illinois Department finds:

2 (a) Such vendor is not complying with the
3 Department's policy or rules and regulations, or with the
4 terms and conditions prescribed by the Illinois
5 Department in its vendor agreement, which document shall
6 be developed by the Department as a result of
7 negotiations with each vendor category, including
8 physicians, hospitals, long term care facilities,
9 pharmacists, optometrists, podiatrists and dentists
10 setting forth the terms and conditions applicable to the
11 participation of each vendor group in the program; or

12 (b) Such vendor has failed to keep or make
13 available for inspection, audit or copying, after
14 receiving a written request from the Illinois Department,
15 such records regarding payments claimed for providing
16 services. This section does not require vendors to make
17 available patient records of patients for whom services
18 are not reimbursed under this Code; or

19 (c) Such vendor has failed to furnish any
20 information requested by the Department regarding
21 payments for providing goods or services; or

22 (d) Such vendor has knowingly made, or caused to be
23 made, any false statement or representation of a material
24 fact in connection with the administration of the medical
25 assistance program; or

26 (e) Such vendor has furnished goods or services to
27 a recipient which are (1) in excess of his or her needs,
28 (2) harmful to the recipient, or (3) of grossly inferior
29 quality, all of such determinations to be based upon
30 competent medical judgment and evaluations; or

31 (f) The vendor; a person with management
32 responsibility for a vendor; an officer or person owning,
33 either directly or indirectly, 5% or more of the shares
34 of stock or other evidences of ownership in a corporate

1 vendor; an owner of a sole proprietorship which is a
2 vendor; or a partner in a partnership which is a vendor,
3 either:

4 (1) was previously terminated from
5 participation in the Illinois medical assistance
6 program, or was terminated from participation in a
7 medical assistance program in another state that is
8 of the same kind as the program of medical
9 assistance provided under Article V of this Code; or

10 (2) was a person with management
11 responsibility for a vendor previously terminated
12 from participation in the Illinois medical
13 assistance program, or terminated from participation
14 in a medical assistance program in another state
15 that is of the same kind as the program of medical
16 assistance provided under Article V of this Code,
17 during the time of conduct which was the basis for
18 that vendor's termination; or

19 (3) was an officer, or person owning, either
20 directly or indirectly, 5% or more of the shares of
21 stock or other evidences of ownership in a corporate
22 vendor previously terminated from participation in
23 the Illinois medical assistance program, or
24 terminated from participation in a medical
25 assistance program in another state that is of the
26 same kind as the program of medical assistance
27 provided under Article V of this Code, during the
28 time of conduct which was the basis for that
29 vendor's termination; or

30 (4) was an owner of a sole proprietorship or
31 partner of a partnership previously terminated from
32 participation in the Illinois medical assistance
33 program, or terminated from participation in a
34 medical assistance program in another state that is

1 of the same kind as the program of medical
2 assistance provided under Article V of this Code,
3 during the time of conduct which was the basis for
4 that vendor's termination; or

5 (g) The vendor; a person with management
6 responsibility for a vendor; an officer or person owning,
7 either directly or indirectly, 5% or more of the shares
8 of stock or other evidences of ownership in a corporate
9 vendor; an owner of a sole proprietorship which is a
10 vendor; or a partner in a partnership which is a vendor,
11 either:

12 (1) has engaged in practices prohibited by
13 applicable federal or State law or regulation
14 relating to the medical assistance program; or

15 (2) was a person with management
16 responsibility for a vendor at the time that such
17 vendor engaged in practices prohibited by applicable
18 federal or State law or regulation relating to the
19 medical assistance program; or

20 (3) was an officer, or person owning, either
21 directly or indirectly, 5% or more of the shares of
22 stock or other evidences of ownership in a vendor at
23 the time such vendor engaged in practices prohibited
24 by applicable federal or State law or regulation
25 relating to the medical assistance program; or

26 (4) was an owner of a sole proprietorship or
27 partner of a partnership which was a vendor at the
28 time such vendor engaged in practices prohibited by
29 applicable federal or State law or regulation
30 relating to the medical assistance program; or;

31 (h) The direct or indirect ownership of the vendor
32 (including the ownership of a vendor that is a sole
33 proprietorship, a partner's interest in a vendor that is
34 a partnership, or ownership of 5% or more of the shares

1 of stock or other evidences of ownership in a corporate
2 vendor) has been transferred by an individual who is
3 terminated or barred from participating as a vendor to
4 the individual's spouse, child, brother, sister, parent,
5 grandparent, grandchild, uncle, aunt, niece, nephew,
6 cousin, or relative by marriage.

7 (A-5) The Illinois Department may deny, suspend, or
8 terminate the eligibility of any person, firm, corporation,
9 association, agency, institution, or other legal entity to
10 participate as a vendor of goods or services to recipients
11 under the medical assistance program under Article V if,
12 after reasonable notice and opportunity for a hearing, the
13 Illinois Department finds that the vendor; a person with
14 management responsibility for a vendor; an officer or person
15 owning, either directly or indirectly, 5% or more of the
16 shares of stock or other evidences of ownership in a
17 corporate vendor; an owner of a sole proprietorship that is a
18 vendor; or a partner in a partnership that is a vendor has
19 been convicted of a felony offense based on fraud or willful
20 misrepresentation related to any of the following:

21 (1) The medical assistance program under Article V
22 of this Code.

23 (2) A medical assistance program in another state
24 that is of the same kind as the program of medical
25 assistance provided under Article V of this Code.

26 (3) The Medicare program under Title XVIII of the
27 Social Security Act.

28 (4) The provision of health care services.

29 (B) The Illinois Department shall deny, suspend or
30 terminate the eligibility of any person, firm, corporation,
31 association, agency, institution or other legal entity to
32 participate as a vendor of goods or services to recipients
33 under the medical assistance program under Article V:

34 (1) if such vendor is not properly licensed;

1 (2) within 30 days of the date when such vendor's
2 professional license, certification or other
3 authorization has been refused renewal or has been
4 revoked, suspended or otherwise terminated; or

5 (3) if such vendor has been convicted of a
6 violation of this Code, as provided in Article VIIIA.

7 (C) Upon termination of a vendor of goods or services
8 from participation in the medical assistance program
9 authorized by this Article, a person with management
10 responsibility for such vendor during the time of any conduct
11 which served as the basis for that vendor's termination is
12 barred from participation in the medical assistance program.

13 Upon termination of a corporate vendor, the officers and
14 persons owning, directly or indirectly, 5% or more of the
15 shares of stock or other evidences of ownership in the vendor
16 during the time of any conduct which served as the basis for
17 that vendor's termination are barred from participation in
18 the medical assistance program. A person who owns, directly
19 or indirectly, 5% or more of the shares of stock or other
20 evidences of ownership in a terminated corporate vendor may
21 not transfer his or her ownership interest in that vendor to
22 his or her spouse, child, brother, sister, parent,
23 grandparent, grandchild, uncle, aunt, niece, nephew, cousin,
24 or relative by marriage.

25 Upon termination of a sole proprietorship or partnership,
26 the owner or partners during the time of any conduct which
27 served as the basis for that vendor's termination are barred
28 from participation in the medical assistance program. The
29 owner of a terminated vendor that is a sole proprietorship,
30 and a partner in a terminated vendor that is a partnership,
31 may not transfer his or her ownership or partnership interest
32 in that vendor to his or her spouse, child, brother, sister,
33 parent, grandparent, grandchild, uncle, aunt, niece, nephew,
34 cousin, or relative by marriage.

1 Rules adopted by the Illinois Department to implement
2 these provisions shall specifically include a definition of
3 the term "management responsibility" as used in this Section.
4 Such definition shall include, but not be limited to, typical
5 job titles, and duties and descriptions which will be
6 considered as within the definition of individuals with
7 management responsibility for a provider.

8 (D) If a vendor has been suspended from the medical
9 assistance program under Article V of the Code, the Director
10 may require that such vendor correct any deficiencies which
11 served as the basis for the suspension. The Director shall
12 specify in the suspension order a specific period of time,
13 which shall not exceed one year from the date of the order,
14 during which a suspended vendor shall not be eligible to
15 participate. At the conclusion of the period of suspension
16 the Director shall reinstate such vendor, unless he finds
17 that such vendor has not corrected deficiencies upon which
18 the suspension was based.

19 If a vendor has been terminated from the medical
20 assistance program under Article V, such vendor shall be
21 barred from participation for at least one year, except that
22 if a vendor has been terminated based on a conviction of a
23 violation of Article VIIIA or a conviction of a felony based
24 on fraud or a willful misrepresentation related to (i) the
25 medical assistance program under Article V, (ii) a medical
26 assistance program in another state that is of the kind
27 provided under Article V, (iii) the Medicare program under
28 Title XVIII of the Social Security Act, or (iv) the provision
29 of health care services, then the vendor shall be barred from
30 participation for 5 years or for the length of the vendor's
31 sentence for that conviction, whichever is longer. At the end
32 of one year a vendor who has been terminated may apply for
33 reinstatement to the program. Upon proper application to be
34 reinstated such vendor may be deemed eligible by the Director

1 providing that such vendor meets the requirements for
2 eligibility under this Code. If such vendor is deemed not
3 eligible for reinstatement, he shall be barred from again
4 applying for reinstatement for one year from the date his
5 application for reinstatement is denied.

6 A vendor whose termination from participation in the
7 Illinois medical assistance program under Article V was based
8 solely on an action by a governmental entity other than the
9 Illinois Department may, upon reinstatement by that
10 governmental entity or upon reversal of the termination,
11 apply for rescission of the termination from participation in
12 the Illinois medical assistance program. Upon proper
13 application for rescission, the vendor may be deemed eligible
14 by the Director if the vendor meets the requirements for
15 eligibility under this Code.

16 If a vendor has been terminated and reinstated to the
17 medical assistance program under Article V and the vendor is
18 terminated a second or subsequent time from the medical
19 assistance program, the vendor shall be barred from
20 participation for at least 2 years, except that if a vendor
21 has been terminated a second time based on a conviction of a
22 violation of Article VIIIA or a conviction of a felony based
23 on fraud or a willful misrepresentation related to (i) the
24 medical assistance program under Article V, (ii) a medical
25 assistance program in another state that is of the kind
26 provided under Article V, (iii) the Medicare program under
27 Title XVIII of the Social Security Act, or (iv) the provision
28 of health care services, then the vendor shall be barred from
29 participation for life. At the end of 2 years, a vendor who
30 has been terminated may apply for reinstatement to the
31 program. Upon application to be reinstated, the vendor may
32 be deemed eligible if the vendor meets the requirements for
33 eligibility under this Code. If the vendor is deemed not
34 eligible for reinstatement, the vendor shall be barred from

1 again applying for reinstatement for 2 years from the date
2 the vendor's application for reinstatement is denied.

3 (E) The Illinois Department may recover money improperly
4 or erroneously paid, or overpayments, either by setoff,
5 crediting against future billings or by requiring direct
6 repayment to the Illinois Department.

7 If the Department of Public Aid establishes through an
8 administrative hearing that the overpayments resulted from
9 the vendor knowingly or through gross negligence making, or
10 causing to be made, a false statement or misrepresentation of
11 a material fact in connection with billings and payments
12 under the medical assistance program under Article V, the
13 Department may recover interest on the amount of the
14 overpayments at the rate of 5% per annum. For purposes of
15 this paragraph:

16 "Knowingly" means that a person makes a statement or
17 representation with actual knowledge that it was false,
18 or makes a statement or representation with knowledge of
19 facts or information that would cause one to be aware
20 that the statement or representation was false when made.

21 "Through gross negligence" means that a person makes
22 a claim for payment or a statement or representation that
23 a reasonable person would conclude was illegitimate or
24 improper based on the totality of the circumstances.

25 If the Department of Public Aid establishes through an
26 administrative hearing that the overpayments resulted from
27 the provision of services by an entity or individual who was
28 excluded, terminated, suspended, or barred from providing
29 services under the medical assistance program under Article V
30 or who was otherwise ineligible to provide services under
31 that program, the Department may recover interest on the
32 amount of the overpayments at the rate of 5% per annum.
33 Interest is not recoverable under this paragraph, however, if
34 the vendor establishes that it confirmed the eligibility of

1 the entity or individual based on both employment and
2 utilization and periodically thereafter.

3 (F) The Illinois Department may withhold payments to any
4 vendor during the pendency of any proceeding under this
5 Section ~~except that if a final administrative decision has~~
6 ~~not been issued within 120 days of the initiation of such~~
7 ~~proceedings, unless delay has been caused by the vendor,~~
8 ~~payments can no longer be withheld, provided, however, that~~
9 ~~the 120-day limit may be extended if said extension is~~
10 ~~mutually agreed to by the Illinois Department and the vendor.~~

11 The Illinois Department shall state by rule with as much
12 specificity as practicable the conditions under which
13 payments will not be withheld during the pendency of any
14 proceeding under this Section. Payments may be denied for
15 bills submitted with service dates occurring during the
16 pendency of a proceeding where the final administrative
17 decision is to terminate eligibility to participate in the
18 medical assistance program. The Illinois Department shall
19 state by rule with as much specificity as practicable the
20 conditions under which payments will not be denied for such
21 bills. The Department of Public Aid shall state by rule a
22 process and criteria by which a vendor may request full or
23 partial release of payments withheld under this subsection.
24 The Department must complete a proceeding under this Section
25 in a timely manner.

26 (F-5) The Illinois Department may temporarily withhold
27 payments to a vendor if any of the following individuals have
28 been indicted or otherwise charged under a law of the United
29 States or this or any other state with a felony offense that
30 is based on alleged fraud or willful misrepresentation on the
31 part of the individual related to (i) the medical assistance
32 program under Article V of this Code, (ii) a medical
33 assistance program provided in another state which is of the
34 kind provided under Article V of this Code, (iii) the

1 Medicare program under Title XVIII of the Social Security
2 Act, or (iv) the provision of health care services:

3 (1) If the vendor is a corporation: an officer of
4 the corporation or an individual who owns, either
5 directly or indirectly, 5% or more of the shares of stock
6 or other evidence of ownership of the corporation.

7 (2) If the vendor is a sole proprietorship: the
8 owner of the sole proprietorship.

9 (3) If the vendor is a partnership: a partner in
10 the partnership.

11 (4) If the vendor is any other business entity
12 authorized by law to transact business in this State: an
13 officer of the entity or an individual who owns, either
14 directly or indirectly, 5% or more of the evidences of
15 ownership of the entity.

16 If the Illinois Department withholds payments to a vendor
17 under this subsection, the Department shall not release those
18 payments to the vendor while any criminal proceeding related
19 to the indictment or charge is pending unless the Department
20 determines that there is good cause to release the payments
21 before completion of the proceeding. If the indictment or
22 charge results in the individual's conviction, the Illinois
23 Department shall retain all withheld payments, which shall be
24 considered forfeited to the Department. If the indictment or
25 charge does not result in the individual's conviction, the
26 Illinois Department shall release to the vendor all withheld
27 payments.

28 (G) The provisions of the Administrative Review Law, as
29 now or hereafter amended, and the rules adopted pursuant
30 thereto, shall apply to and govern all proceedings for the
31 judicial review of final administrative decisions of the
32 Illinois Department under this Section. The term
33 "administrative decision" is defined as in Section 3-101 of
34 the Code of Civil Procedure.

1 (H) Nothing contained in this Code shall in any way
2 limit or otherwise impair the authority or power of any State
3 agency responsible for licensing of vendors.

4 (I) Based on a finding of noncompliance on the part of a
5 nursing home with any requirement for certification under
6 Title XVIII or XIX of the Social Security Act (42 U.S.C. Sec.
7 1395 et seq. or 42 U.S.C. Sec. 1396 et seq.), the Illinois
8 Department may impose one or more of the following remedies
9 after notice to the facility:

- 10 (1) Termination of the provider agreement.
- 11 (2) Temporary management.
- 12 (3) Denial of payment for new admissions.
- 13 (4) Civil money penalties.
- 14 (5) Closure of the facility in emergency situations
15 or transfer of residents, or both.
- 16 (6) State monitoring.
- 17 (7) Denial of all payments when the Health Care
18 Finance Administration has imposed this sanction.

19 The Illinois Department shall by rule establish criteria
20 governing continued payments to a nursing facility subsequent
21 to termination of the facility's provider agreement if, in
22 the sole discretion of the Illinois Department, circumstances
23 affecting the health, safety, and welfare of the facility's
24 residents require those continued payments. The Illinois
25 Department may condition those continued payments on the
26 appointment of temporary management, sale of the facility to
27 new owners or operators, or other arrangements that the
28 Illinois Department determines best serve the needs of the
29 facility's residents.

30 Except in the case of a facility that has a right to a
31 hearing on the finding of noncompliance before an agency of
32 the federal government, a facility may request a hearing
33 before a State agency on any finding of noncompliance within
34 60 days after the notice of the intent to impose a remedy.

1 Except in the case of civil money penalties, a request for a
2 hearing shall not delay imposition of the penalty. The
3 choice of remedies is not appealable at a hearing. The level
4 of noncompliance may be challenged only in the case of a
5 civil money penalty. The Illinois Department shall provide by
6 rule for the State agency that will conduct the evidentiary
7 hearings.

8 The Illinois Department may collect interest on unpaid
9 civil money penalties.

10 The Illinois Department may adopt all rules necessary to
11 implement this subsection (I).

12 (Source: P.A. 92-327, eff. 1-1-02; revised 9-18-01.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.