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Administrative Sanctions to be Invoked Against Vendors and/or Providers of Goods and Services Under the Title XIX (Medicaid) Program

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Sec. 17-83k-1. General statement

(a) **General statement.** Section 17-83k of the General Statutes provides for administrative sanctions against vendors of goods or services performed for or sold to beneficiaries under the medicare program, medicaid program, aid to families with dependent children program, state supplement to the federal supplemental security income program, or any federal or state energy assistance program or general assistance program, including suspension or termination from said programs. This act also provides for department notification of the proper professional society and licensing agency of any violation thereof.

The following are policies and procedures for Administrative Sanctions to be imposed against vendors or providers of goods or services performed for or sold to beneficiaries under said programs for violations including, but not limited to, those hereinafter set forth.

(b) **Definitions**

(1) 'Vendor' and 'provider' mean any person acting on his own behalf or on behalf of an entity and any entity furnishing goods or services.

(2) 'The commissioner' means the commissioner or his duly authorized representative.

(3) 'Suspension' means limiting program participation of vendors who, although not convicted of program-related crimes, are found by the department to have violated rules, regulations, standards, and/or laws governing said program.

(4) 'Termination' means foreclosing program participation by vendors who have been convicted of a crime involving program participation.

(5) 'Convicted' means that a judgment of conviction has been entered by a federal, state, or local court, regardless of the plea upon which it was based or whether an appeal from that judgment is pending.

(6) 'Violations' are (1) false statements of representations knowingly and willfully made or caused to be made for the purpose of claiming or determining payment, or (2) services furnished or ordered in excess of the recipient's need, or (3) failure to adhere to conditions of vendor participation in the program.

(7) 'Ownership or control interest' means a person or corporation that:

(A) Has an ownership interest totalling 5 percent or more in a disclosing entity;

(B) Has an indirect ownership interest equal to 5 percent or more in a disclosing entity;

(C) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a disclosing entity;

(D) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least 5 percent of the value of the property or assets of the disclosing entity;

(E) Is an officer or director of a disclosing entity that is organized as a corporation; or

(F) Is a partner in a disclosing entity that is organized as a partnership.

(Effective October 29, 1985)

Sec. 17-83k-2. Failure to meet or to continue to meet eligibility criteria

Vendors must meet and maintain eligibility criteria of program participation specified in Federal and State Statutes and Regulations and in departmental contracts or agreements. Failure to meet criteria for eligibility will result in the suspension of a vendor's participation.

Whenever the Department of Income Maintenance (hereinafter referred to as ''Department'') receives notification from the Licensing or Certifying Agency that a participating vendor has received either notice of denial of certification when such certification is required by Federal or State Statute or regulation, or has received notice of a denial of federal financial participation, or of an application for renewal of a license, certificate, permit or the like, when such license, certificate, permit or the like represents a prerequisite for participation, the Commissioner may suspend such vendor from further participation in the program.

(Effective October 29, 1985)

Sec. 17-83k-3. Violations of rules, regulations, standards and laws

All vendors are subject to the federal and state laws and rules and regulations governing the programs in which they participate. Following are examples of violations by vendors of these laws, rules or regulations which constitute good cause for the imposition of administrative sanctions against such vendors:

(1) Accepting payment for goods provided to and/or services performed for any beneficiary under Chapter 302 of the Connecticut General Statutes, which payment exceeds the amount(s) due or authorized by law for such goods and/or services.

(2) Soliciting to perform services for and/or sell goods to any such beneficiary or recipient knowing that such beneficiary or recipient is not in need of such goods or services.

(3) Selling goods to or performing services for any such beneficiary or recipient without prior authorization by the Department of Income Maintenance when prior authorization is required by said Department for the buying of such goods or the performance of any such service.

(4) Accepting from any person or source other than the State an additional compensation in excess of the amount authorized by law for goods provided to or services performed for any such beneficiary or recipient.

(5) Knowingly and willfully making, or causing to be made, any false statement or misrepresentation of material fact for the purpose of claiming or determining payment.

(6) Furnishing or ordering services that are in excess of the recipient's needs or that fail to meet professionally recognized standards.

(7) Submitting or causing to be submitted to the program bills or requests for payment containing charges or costs that are in excess of customary charges or costs.

(8) Any of the fraudulent acts and/or false reporting proscribed under federal or state statutes.

(9) Failure of a vendor to comply with any provision of a contract or agreement which is in effect between said vendor and the Department of Income Maintenance.

(Effective October 29, 1985)

Sec. 17-83k-4.

Repealed, October 29, 1985.

Sec. 17-83k-4a. Sanction procedures for non-convicted vendors

If the Department has reason to believe that a vendor has committed a violation, which violation has not resulted in a criminal conviction, the Commissioner may impose one or more of the administrative sanctions outlined in Sec. 17-83k-5 of these Regulations, in accordance with the following procedures:

(a) **Written notice.** Before imposing a sanction, the Commissioner shall send by certified mail, return receipt requested, written notice to the vendor, which notice shall include:

(1) A statement of the alleged violation or violations,

(2) Notice of the right to a hearing,

(3) A statement that proof of said violations may result in the imposition of sanctions,

(4) A copy of this regulation.

(b) **Hearing procedure**

(1) The vendor shall send to the Office of Program Integrity, by certified mail, an answer to the allegations contained in the notice of violation. An answer must contain, but is not limited to, an admission or denial of each allegation and a clear and concise statement of all the facts on which the vendor relies.

(2) If the vendor fails to file an answer to the notice of violation within fifteen (15) days of receipt of the notice, the vendor shall be deemed to have waived his right to an adjudicatory hearing and the proposed sanction will be imposed, effective twenty (20) days after receipt of the notice of violation.

(3) The Department shall schedule an adjudicatory hearing as soon as practicable, which hearing shall be held in accordance with the provisions of the Uniform Administrative Procedures Act.

(Effective October 29, 1985)

Sec. 17-83k-5. Sanctions

(a) Sanctions shall include, but shall not be limited to any one or more of the following:

(1) An order to make restitution, with interest at the rate provided by statute, as a condition of continued participation.

(2) Suspension from participation.

(3) Limitation on a provider's participation.

(b) The Department shall give written notice forthwith of its findings and decision to the proper professional society and/or licensing agency of any violation of program rules, regulations, standards and laws.

(Effective October 29, 1985)

Sec. 17-83k-6. Termination upon conviction

(a) Notwithstanding any other provisions of these regulations to the contrary, any vendor against whom a judgment of conviction has been rendered in any state or federal court of a crime involving fraud in said programs shall be terminated from participation. Termination shall be effective upon conviction, except that the Commissioner may delay termination for a period he deems sufficient to protect the health and well-being of beneficiaries receiving goods and/or services from such vendor. No vendor or person so terminated or denied reimbursement shall be readmitted to or be eligible for reimbursement in such programs for at least one year from the date of termination or conviction.

(b) The Commissioner shall notify said vendor of such termination by certified mail, return receipt requested. The notification shall inform the vendor of his/her ineligibility for reimbursement for any goods provided or services performed directly by, or under the supervision of, said vendor for the period of termination, and of the right to a hearing, provided the request is filed with the Commissioner in writing within ten (10) days of the notice date.

(c) The scope of the hearing shall be limited to (1) whether the vendor was convicted, (2) whether the conviction is related to the vendor's participation in programs conducted by the Department of Income Maintenance, (3) whether the amount of restitution sought by the Department is accurate, and (4) the appropriateness of the period of termination.

(d) In setting the termination period, the Department will consider:

(1) The number and nature of the program violations and other related offenses;

(2) The nature and extent of any adverse impact the violations have had on beneficiaries;

(3) The amount of damages incurred by Medicaid, or other social service programs for which the Department is responsible;

(4) Whether there are any mitigating circumstances;

(5) The length of the sentence imposed by the court;

(6) Any other facts bearing on the nature and seriousness of the program violations, and

(7) The previous sanction record of the terminated party.

(Effective February 26, 1990)

Sec. 17-83k-7. Reinstatement

(a) **After suspension.** Upon completion of all obligations imposed by sanction or 30 days prior to the expiration of the suspension period, whichever is later, the vendor may submit to the Commissioner a request for reinstatement. Approval of said request, if granted, shall be sent the vendor, and all who were informed of the sanction, in writing. In deciding whether to approve such request the Commissioner may consider the nature and degree of the offense leading to the sanction, the likelihood of its recurrence, and any other factors the Commissioner deems appropriate. The burden of proof shall be upon the vendor.

(b) **After termination.** Upon expiration of the period of termination the vendor may request reinstatement by making written request to the Commissioner for a hearing in accordance with Sections 4-177 to 4-180 of the Uniform Administrative Procedure Act. At said hearing the burden of proof shall be on the vendor seeking reinstatement.

(Effective October 29, 1985)