

441—185.12(234) Sanctions against providers of rehabilitative treatment and supportive services. Failure to meet the requirements relevant to provider certification, contracting, cost reporting, billing and payment, and documentation may subject providers to sanctions.

185.12(1) Grounds for sanctioning providers. Sanctions may be imposed by the department against a provider for any one or more of the following reasons:

- a.* Presenting or causing to be presented for payment any false or fraudulent claim for services or merchandise.
- b.* Submitting or causing to be submitted false information for the purpose of obtaining greater compensations than that to which the provider is legally entitled.
- c.* Submitting or causing to be submitted false information for the purpose of meeting service authorization requirements.
- d.* Failing to disclose or make available to the department or its authorized agent, records of services provided to a child and family and records of payments made for those services.
- e.* Failing to provide and maintain the quality of the services to children and families within established standards.
- f.* Engaging in a course of conduct or performing an act which is in violation of state or federal regulations, or continuing that conduct following notification that it should cease.
- g.* Overutilizing rehabilitative treatment services by inducing, furnishing or otherwise causing the child or family to receive services or merchandise not authorized.
- h.* Rebating or accepting a fee or portion of a fee or a charge for referrals of a child or family.
- i.* Submitting a false or fraudulent application for provider status for rehabilitative treatment services.
- j.* Violating any laws, regulations, or code of ethics governing the conduct of occupations or professionals subject to this chapter.
- k.* Being convicted of a criminal offense relating to negligent practice resulting in death or injury to clients.
- l.* Failing to meet standards required by state or federal law for certification, for example, licensure.
- m.* Failing to correct deficiencies in provider operations after receiving notice of these deficiencies from the department.
- n.* Receiving a formal reprimand or censure by an association of the provider's peers for unethical practices.
- o.* Being suspended or terminated from participation in another governmental medical program such as workers' compensation, crippled children's services, rehabilitation services or Medicaid.
- p.* Committing fraudulent billing practices.
- q.* Committing negligent practice resulting in death or injury to the provider's clients.
- r.* Failing to repay or make arrangement for the repayment of identified overpayments or other erroneous payments.

185.12(2) Sanctions. The following sanctions may be imposed on providers based on the grounds specified in subrule 185.12(1).

- a.* A term of probation for provision of rehabilitative treatment services.
- b.* Termination from participation in the provision of rehabilitative treatment services.
- c.* Suspension from provision of rehabilitative treatment services.
- d.* Suspension or withholding of payments to provider.
- e.* One hundred percent review of the provider's claims prior to payment.
- f.* Referral to the state licensing board for investigation.
- g.* Referral to appropriate federal or state legal authorities for investigation and prosecution under applicable federal or state laws.
- h.* Suspension of rehabilitative treatment services certification.
- i.* Termination of rehabilitative treatment services certification.

185.12(3) *Imposition and extent of sanction.* The decision on the sanction to be imposed shall be the department's. The following factors shall be considered in determining the sanction or sanctions to be imposed:

- a. Seriousness of the offense.
- b. Extent of violations.
- c. History of prior violations.
- d. Prior imposition of sanctions.
- e. Prior provision of technical assistance.
- f. Provider pattern of failure to follow program rules.
- g. Whether a lesser sanction will be sufficient to remedy the problem.
- h. Actions taken or recommended by peer review groups or licensing bodies.

185.12(4) *Scope of sanction.*

a. The sanction may be applied to all known affiliates of a provider, provided that each decision to include an affiliate is made on a case-by-case basis after giving due regard to all relevant factors and circumstances. The violation, failure, or inadequacy of performance may be imputed to a person with whom the violator is affiliated where the conduct was accomplished in the course of official duty or was effectuated with the knowledge or approval of that person.

b. Suspension or termination from provision of rehabilitative treatment services shall preclude the provider from submitting claims for payment whether personally or through claims submitted by a clinic, group, corporation, or other association to the department for any services provided after suspension or termination.

c. No clinic, group, corporation, or other association which is the provider of services shall submit claims for payments to the department for any services or supplies provided by a person within the association who has been suspended or terminated from provision of rehabilitative treatment services except for those services provided prior to the suspension or termination.

d. When there are grounds for sanction pursuant to subrule 185.12(1) against a clinic, group, corporation, or other association, the department may suspend or terminate the organization, or any other individual person within the organization who is responsible for the violation.

185.12(5) *Notice of sanction.* When a provider has been sanctioned, the department shall notify as appropriate the applicable professional society, board of registration or licensure, and federal or state agencies of the findings made and the sanctions imposed.

185.12(6) *Notice of violation.* Should the department have information that indicates that a provider may have submitted bills or been practicing in a manner inconsistent with the program requirements, or may have received payment for which the provider may not be properly entitled, the department shall notify the provider of the discrepancies noted. Notification shall set forth:

- a. The nature of the discrepancies or violations.
- b. The known dollar value of the discrepancies or violations.
- c. The method of computing the dollar value.
- d. Notification of further actions to be taken or sanctions to be imposed by the department.
- e. Notification of any actions required of the provider. The provider shall have 15 days subsequent to the date of the notice prior to the department action to show cause why the action should not be taken.

185.12(7) *Suspension or withholding of payments pending a final determination.* When the department has notified a provider of a violation pursuant to 185.12(6) or an overpayment, the department may withhold payments on pending and subsequently received claims in an amount reasonably calculated to approximate the amounts in question or may suspend payment pending a final determination. When the department intends to withhold or suspend payments, it shall notify the provider in writing.