

**4123-6-02.51 Provider access to the HPP -- Denial of provider, entity or MCO enrollment/certification based on criminal conviction or civil action.**

- (A) The administrator may refuse to enroll, certify or recertify, or may terminate enrollment, or decertify from participation in the HPP, any provider, entity or MCO that:
- (1) Is owned, directly or indirectly, by an individual or entity that has a felony conviction in any jurisdiction, a conviction under a federal controlled substance act, a misdemeanor conviction for an act involving dishonesty, fraud, or misrepresentation, a conviction for a misdemeanor committed in the course of practice, a felony or misdemeanor conviction involving dishonesty, fraud, or misrepresentation related to any compensation or benefits payable under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, or court supervised intervention or treatment in lieu of conviction pursuant to section 2951.041 of the Revised Code or the equivalent law of another state.
  - (2) Has one or more owners, shareholders, members, partners, managing employees, officers or directors, who have a conviction or court supervised intervention or treatment in lieu of conviction as described in paragraph (A) (1) of this rule; and including any provider, entity or MCO that is no longer so described because of a transfer of ownership or interest to an immediate family member or a member of the person's household in anticipation of or following a conviction or court supervised intervention or treatment in lieu of conviction as described in paragraph (A)(1) of this rule.
  - (3) Is owned directly, or indirectly, by an individual or entity who has engaged in specific conduct which demonstrates financial irresponsibility. Such conduct shall include, but not be limited to:
    - (a) Specific examples of insolvency of businesses owned or controlled by the individual or entity;
    - (b) Specific examples of failures to pay debts or judgments;
    - (c) Specific examples of activity which has defrauded any person, entity or organization, regardless of whether such activity has resulted in criminal prosecution;
    - (d) Any finding of fraud in a civil or administrative proceeding related to any compensation or benefits payable under Chapter 4121., 4123., 4127., or 4131. of the Revised Code or the equivalent laws of another state.
  - (4) For the purposes of this paragraph:
    - (a) "Entity" means any sole proprietorship, partnership, corporation, professional association, limited liability company or any other business organization doing business in this or any other state.
    - (b) "Immediate family member" means a person's spouse; natural or adoptive parent; child or sibling, stepparent, stepchild, stepbrother or stepsister; father-, mother-, daughter-, son-, brother- or sister-in-law; grandparent or grandchild; or spouse of a grandparent or grandchild.
    - (c) "Managing employee" means an individual (including a general manager, office manager, business manager, administrator or director) who exercises operational or managerial control over the provider, entity or MCO or part thereof, or directly or indirectly conducts the day-to-day operations of the provider, entity or MCO or part thereof, or is involved in the billing functions of the provider, entity or MCO or part thereof.
    - (d) "Member of household" means, with respect to a person, any individual with whom they are sharing a common abode.

(e) "Owned directly or indirectly" means having an interest that includes ownership, as an individual or through any other entity or entities, of five percent or more in the provider, entity or MCO at issue.

(B) Notwithstanding and in addition to the provisions set forth in this rule, pursuant to division (C)(1) of section 4121.444 of the Revised Code the administrator may terminate any agreement between the bureau and a person or a health care provider or managed care organization or its owner and cease reimbursement to, decertify and terminate the enrollment of that person, provider, organization, or owner for services rendered if any of the following apply:

- (1) The person, health care provider, managed care organization, or its owner, or an officer, authorized agent, associate, manager, or employee of a person, provider, or organization is convicted of or pleads guilty to a violation of sections 2913.48 or 2923.31 to 2923.36 of the Revised Code or any other criminal offense related to the delivery of or billing for health care benefits.
- (2) There exists an entry of judgment against the person, health care provider, managed care organization, or its owner, or an officer, authorized agent, associate, manager, or employee of a person, provider, or organization and proof of the specific intent of the person, health care provider, managed care organization, or owner to defraud, in a civil action brought pursuant to section 4121.444 of the Revised Code.
- (3) There exists an entry of judgment against the person, health care provider, managed care organization, or its owner, or an officer, authorized agent, associate, manager, or employee of a person, provider, or organization in a civil action brought pursuant to sections 2923.31 to 2923.36 of the Revised Code.

(C) No person, health care provider, or managed care organization that has had its agreement with and reimbursement from the bureau terminated by the administrator pursuant to division (C)(1) of section 4121.444 of the Revised Code, or an owner, officer, authorized agent, associate, manager, or employee of that person, health care provider, or managed care organization shall do either of the following:

- (1) Directly provide services to any other bureau provider or have an ownership interest, as an individual or through any other entity or entities, of five percent or more in a provider of services that furnishes services to any other bureau provider;
- (2) Arrange for, render, or order services for claimants during the period that the agreement of the person, health care provider, managed care organization, or its owner is terminated as described in division (C)(1) of section 4121.444 of the Revised Code;

(D) The administrator shall not terminate the agreement or reimbursement if the person, health care provider, managed care organization, or owner demonstrates that the person, provider, organization, or owner did not directly or indirectly sanction the action of the authorized agent, associate, manager, or employee that resulted in the conviction, plea of guilty, or entry of judgment as described in division (C)(1) of section 4121.444 of the Revised Code.

(E) Nothing in division (C) of section 4121.444 of the Revised Code prohibits an owner, officer, authorized agent, associate, manager, or employee of a person, health care provider, or managed care organization from entering into an agreement with the bureau if the provider, organization, owner, officer, authorized agent, associate, manager, or employee demonstrates absence of knowledge of the action of the person, health care provider, or managed care organization with which that individual or organization was formerly associated that resulted in a conviction, plea of guilty, or entry of judgment as described in division (C)(1) of section 4121.444 of the Revised Code.

(F) Actions taken by the administrator pursuant to this rule shall be subject to rule 4123-6-17 of the Administrative Code.

Effective: 11/13/15

Prior Effective Dates: 4/1/07, 9/1/13