

**§ 108C-14. Provider performance bonds.**

(a) Subject to the provisions of this section, the Department may require Medicaid-enrolled providers to purchase a performance bond in an amount not to exceed one hundred thousand dollars (\$100,000) naming as beneficiary the Department of Health and Human Services, Division of Health Benefits, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may require the purchase of a performance bond or the submission of an executed letter of credit or financial instrument as a condition of initial enrollment, reenrollment, recredentialing, or reinstatement if any of the following are true:

- (1) The provider fails to demonstrate financial viability.
- (2) The Department determines there is significant potential for fraud and abuse.
- (3) The Department otherwise finds it is in the best interest of the Medicaid program to do so.

The Department shall specify the circumstances under which a performance bond or executed letter of credit will be required.

(b) The Department may waive or limit the requirements of subsection (a) of this section for individual Medicaid-enrolled providers or for one or more classes of Medicaid-enrolled providers based on the following:

- (1) The provider's or provider class's dollar amount of monthly billings to Medicaid.
- (2) The length of time an individual provider has been licensed, endorsed, certified, or accredited in this State to provide services.
- (3) The length of time an individual provider has been enrolled to provide Medicaid services in this State.
- (4) The provider's demonstrated ability to ensure adequate record keeping, staffing, and services.
- (5) The need to ensure adequate access to care.

In waiving or limiting requirements of this section, the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department shall provide to the affected provider written notice of the findings upon which its action is based and shall include the performance bond requirements and the conditions under which a waiver or limitation apply. (2013-360, s. 12H.17(a); 2019-81, s. 15(a).)