any other state's medical assistance program. In this subsection "convicted" means that a judgment of conviction has been entered by a federal, state or local court, irrespective of whether an appeal from the judgment is pending; or

(f) Excluded, terminated, suspended or otherwise sanctioned by medicare or by this or any other state's medical assistance program;

(29) BILLING FOR SERVICES OF A NON-CERTIFIED PROVIDER. The provider submitted claims for services provided by an individual whose MA certification had been terminated or suspended, and the submitting provider had knowledge of the individual's termination or suspension; or

(30) BUSINESS TRANSFER LIABILITY. The provider has failed to comply with the requirements of s. 49.45 (21), Stats., regarding liability for repayment of overpayments in cases of business transfer.

History: Cr. Register, December, 1979, No. 288, eff. 2-1-80; am. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 106.07 Effects of suspension or involuntary termination. (1) LENGTH OF SUSPENSION OR INVOLUNTARY TERMINATION. In determining the period for which a party identified in this chapter is to be disqualified from participation in the program, the department shall consider the following factors:

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

(b) The nature and extent of any adverse impact on recipients caused by the violations;

(c) The amount of any damages;

(d) Any mitigating circumstances; and

(e) Any other pertinent facts which have direct bearing on the nature and seriousness of the program violations or related offenses.

(2) MEDICARE OR OTHER STATE MEDICAL ASSISTANCE SANCTIONS. Notwithstanding any other provision in this chapter, a party identified in this chapter who is suspended, excluded or terminated under the medicare program or under the medical assistance program of another state shall be barred from participation as a provider during the term of the suspension, exclusion or termination. If the suspension is based solely on action taken by the medicare program, the department shall automatically reinstate the provider, effective on the date of reinstatement in the medicare program, whenever the department is notified by the U.S. office of the inspector general that the provider has been reinstated in the medicare program.

(3) REFERRAL TO LICENSING AGENCIES. The secretary shall notify the appropriate state licensing agency of the suspension or termination by MA of any provider licensed by the agency and of the act or acts which served as the basis for the provider's suspension or termination.

(4) OTHER POSSIBLE SANCTIONS. In addition or as an alternative to the suspension or termination of a provider's certification, the secretary may impose any or all of the following sanctions against a provider who has been found to have engaged in the conduct described in s. HSS 106.06:

(a) Referral to the appropriate state regulatory agency;

(b) Referral to the appropriate peer review mechanism;

(c) Transfer to a provider agreement of limited duration not to exceed 12 months; or

(d) Transfer to a provider agreement which stipulates specific conditions of participation.

History: Cr. Register, December, 1979, No. 288. eff. 2-1-80; am. Register, February, 1986, No. 362, eff. 3-1-86; am. (2), Register, February, 1988, No. 386, eff. 3-1-88.

HSS 106.075 Departmental discretion to pursue monetary recovery. (1) Nothing in this chapter shall preclude the department from pursuing monetary recovery from a provider at the same time action is initiated to impose sanctions provided for under this chapter.

(2) The department may pursue monetary recovery from a provider of case management services when an audit adjustment or disallowance has been attributed to the provider by the federal health care financing administration or the department. The provider shall be liable for the entire amount. However, no fiscal sanction under this subsection shall be taken against a provider unless it is based on a specific policy which was:

(a) In effect during the time period being audited; and

(b) Communicated to the provider in writing by the department or the federal health care financing administration prior to the time period audited.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; r. and recr. Register, February, 1988, No. 386, eff. 3-1-88.

HSS 106.08 Withholding payment of claims (1) Suspension or termination from participation shall preclude a provider from submitting any claims for payment, either personally or through claims submitted by any clinic, group, corporation or other association for any health care provided under MA, except for health care provided prior to the suspension or termination.

(2) No clinic, group, corporation or other association which is a provider of services may submit any claim for payment for any health care provided by an individual provider within that organization who has been suspended or terminated from participation in MA, except for health care provided prior to the suspension or termination.

(3) The department may recover any payments made in violation of this subsection. Knowing submission of these claims shall be a grounds for administrative sanctions against the submitting provider.

History: Cr. Register, December, 1979, No. 288. eff. 2-1-80; am. Register, February, 1986, No. 362, eff. 3-1-86; r. (1), renum. (2) (a) to (c) to be (1) to (3), Register, February, 1988, No. 386, eff. 3-1-88.

HSS 106.09 Pre-payment review of claims. (1) HEALTH CARE REVIEW COMMITTEES. The department shall establish committees of qualified health care professionals to evaluate and review the appropriateness, quality and quantity of services furnished recipients.

(2) REFERRAL OF ABERRANT PRACTICES. If the department has cause to suspect that a provider is prescribing or providing services which are not