



## P R O V I D E R   B U L L E T I N

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**To: All Providers****Subject: Requirement to Screen for Excluded Individuals and Entities**

## Overview

The purpose of this bulletin is to remind all providers of their obligation to screen employees and contractors for excluded individuals and entities both prior to hiring or contracting and on a periodic basis, and to review the calculation of overpayments to excluded individuals or entities.

## General

The U.S. Health and Human Services Office of Inspector General (HHS-OIG) excludes individuals and entities from participation in Medicare, Medicaid, the State Children's Health Insurance Program (SCHIP), and all Federal healthcare programs (as defined in *Section 1128B(f)* of the *Social Security Act* – the Act), based on the authority contained in various sections of the Act, including *Sections 1128, 1128A, and 1156*.

## Payment Ban for Excluded Providers

When the HHS-OIG has excluded a provider, Federal healthcare programs (including Medicaid and SCHIP programs) are generally prohibited from paying for any items or services furnished, ordered, or prescribed by excluded individuals or entities (*Section 1903(i)(2)* of the Act; and *42 CFR section 1001.1901(b)*). This payment ban applies to any items or services reimbursable under a Medicaid program that are furnished by an excluded individual or entity, and extends to:

- All methods of reimbursement, whether payment results from itemized claims, cost reports, fee schedules, or a prospective payment system;
- Payment for administrative and management services not directly related to patient care, but that are a necessary component of providing items and services to Medicaid recipients, when those payments are reported on a cost report or are otherwise payable by the Medicaid program; and
- Payment to cover an excluded individual's salary, expenses, or fringe benefits, regardless of whether the individual or entity provides direct patient care, when those payments are reported on a cost report or are otherwise payable by the Medicaid program.

In addition, no Medicaid payments can be made for any items or services directed or prescribed by an excluded physician or other authorized person when the individual or entity furnishing the services

knew or should have known of the exclusion. This prohibition applies even when the Medicaid payment itself is made to another provider, practitioner, or supplier that is not excluded (*42 CFR section 1001.1901(b)*).

The listing below<sup>1</sup> sets forth some examples of types of items or services that are reimbursed by Medicaid which, when provided by excluded parties, are not reimbursable:

- Services performed by excluded nurses, technicians, or other excluded individuals who work for a hospital, nursing home, home health agency or physician practice, where such services are related to administrative duties, preparation of surgical trays, or review of treatment plans if such services are reimbursed directly or indirectly (such as through a pay per service or a bundled payment) by a Medicaid program, even if the individuals do not furnish direct care to Medicaid recipients;
- Services performed by excluded pharmacists or other excluded individuals who input prescription information for pharmacy billing or who are involved in any way in filling prescriptions for drugs reimbursed, directly or indirectly, by a Medicaid program;
- Services performed by excluded ambulance drivers, dispatchers, and other employees involved in providing transportation reimbursed by a Medicaid program, to hospital patients or nursing home residents;
- Services performed for program recipients by excluded individuals who sell, deliver, or refill orders for medical devices or equipment being reimbursed by a Medicaid program;
- Services performed by excluded social workers who are employed by healthcare entities to provide services to Medicaid recipients, and whose services are reimbursed, directly or indirectly, by a Medicaid program;
- Services performed by an excluded administrator, billing agent, accountant, claims processor, or utilization reviewer that are related to and reimbursed, directly or indirectly, by a Medicaid program;
- Items or services provided to a Medicaid recipient by an excluded individual who works for an entity that has a contractual agreement with, and is paid by, a Medicaid program; and
- Items or equipment sold by an excluded manufacturer or supplier, used in the care or treatment of recipients, and reimbursed, directly or indirectly, by a Medicaid program.

## Consequences to States of Paying Excluded Providers

Because it is prohibited by Federal law from doing so, no payments can be made for any amount expended for items or services (other than an emergency item or service not provided in a hospital emergency room) furnished under the plan by an individual or entity while being excluded from participation (unless the claim for payment meets an exception listed in *42 CFR section 1001.1901(c)*). Any such payments actually claimed for Federal financial participation constitute an overpayment under sections *1903(d)(2)(A)* and *1903(i)(2)* of the Act, and are therefore subject to recoupment.

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<sup>1</sup> This list is drawn from the 1999 HHS-OIG Special Advisory Bulletin: *The Effect of Exclusion From Participation in Federal Health Care Programs*.

Civil monetary penalties may be imposed against Medicaid providers and managed care entities (MCEs) that employ or enter into contracts with excluded individuals or entities to provide items or services to Medicaid recipients. (*Section 1128A(a)(6)* of the Act; and *42 CFR section 1003.102(a)(2)*)

## Provider Requirements for Determination of Excluded Individuals or Entities

All current providers and providers applying to participate in the Medicaid program shall take the following steps to determine whether their employees and contractors are excluded individuals or entities:

- Providers shall screen all employees and contractors to determine whether any of them have been excluded.
- Providers are required to agree to comply with this obligation as a condition of enrollment.
- Providers can search the HHS-OIG Web site by the names of any individual or entity. Providers must search the HHS-OIG Web site monthly to capture exclusions and reinstatements that have occurred since the last search.
- Providers are required to immediately report to the State any exclusion information discovered by contacting the Provider and Member Concern Line at 317-347-4527 in the Indianapolis local area or toll free at 1-800-457-4515.

## Where Providers Can Look for Excluded Parties

The HHS-OIG maintains the List of Excluded Individuals and Entities (LEIE), a database accessible to the general public that provides information about parties excluded from participation in Medicare, Medicaid, and all other Federal healthcare programs. The LEIE Web site is located at <http://www.oig.hhs.gov/fraud/exclusions.asp> and is available in two formats. The online search engine identifies currently excluded individuals or entities. When a match is identified, it is possible for the searcher to verify the accuracy of the match using a Social Security number (SSN) or Employer Identification Number (EIN). The downloadable version of the database may be compared against an existing database maintained by a provider. However, unlike the online format, the downloadable database does not contain SSNs or EINs.

## Calculation of Overpayments to Excluded Individuals or Entities

As stated above, Federal healthcare programs, including Medicaid, are generally prohibited from paying for any items or services furnished, ordered, or prescribed by excluded individuals or entities. The amount of the Medicaid overpayment for such items or services is the actual amount of Medicaid dollars that were expended for those items or services. When Medicaid funds have been expended to pay an excluded individual's salary, expenses, or fringe benefits, the amount of the overpayment is the amount of those expended Medicaid funds.

## Additional Information

The latest information regarding the IHCP can be found in the IHCP newsletters at <http://www.indianamedicaid.com/ihcp/Publications/newsletters.asp>. IHCP bulletins and banners pages can be accessed at <http://www.indianamedicaid.com/ihcp/index.asp>.

## Contact Information

Questions regarding this bulletin may be directed to Customer Assistance at (317) 655-3240 or toll free at 1-800-577-1278.

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