

Exclusion from Medicare and Other Federal Health Care Programs: Questions and Answers for Physicians

Exclusion from Medicare and other Federal health care programs is frequently misunderstood. But it can have significant and costly effects on physicians, whether the exclusion applies to them, their employee or contractor, or the health care entity they own, are employed by, or practice at. Here are some important questions and answers about physicians and exclusion.

- What is exclusion?
 - Federal law prohibits Federal health care programs from paying for items or services furnished, ordered, or prescribed by an individual or entity excluded from participation by the U.S. Department of Health and Human Services.
 - This includes items and services provided by individuals or entities who cannot bill under their own provider number and all administrative, management, and support services necessary to provide health care items or services.
- What are Federal health care programs?
 - The Federal health care programs include many government programs, such as Medicare, Medicaid, Children's Health Insurance Program (CHIP), CHAMPUS, TriCare, and the Veterans Health Administration.
- When does exclusion occur?
 - HHS must exclude individuals and entities convicted of any crimes related to the delivery of items or services to Medicare or Medicaid, or the neglect or abuse of patients, or of felonies related to health care fraud or the manufacture, distribution, prescription, or dispensing of controlled substances.
 - HHS may exclude individuals or entities for certain other reasons, including certain misdemeanors or the loss of a professional license based on financial integrity or professional competency or performance.
- What is the effect of exclusion?
 - Items or services may not be paid for by the Federal health care programs if an excluded person provided them.

- Federal health care programs cannot pay for items or services **provided, prescribed, or ordered** by an excluded physician.
 - An excluded provider cannot submit claims to Federal health care programs that include items or services, including administrative or management services, provided by it or its employees, contractors, or staff.
 - If payment is made for services or items furnished by an excluded provider, HHS-OIG can collect the payments associated with those services, as well as penalties, under the Civil Monetary Penalties Law. Whether it was the physician who was excluded, or a member of his staff, the payments made for those services will create an overpayment and possibly fraud liability. Physicians can self-disclose this conduct under HHS-OIG's Provider Self-Disclosure Protocol.
- If a physician is excluded, can he or she work in another role in health care?
 - The Federal health care programs cannot pay for any items or services provided, prescribed, or ordered by an excluded physician, even if the physician is performing a different role, such as a licensed therapist or an administrator.
 - How can a physician check on the exclusion status of an individual or entity?
 - HHS's Office of Inspector General (HHS-OIG) maintains a public List of Excluded Individuals and Entities (LEIE) on its website.
 - The LEIE can be accessed here: <http://exclusions.oig.hhs.gov/>
 - What does a physician who owns a participating medical practice or other health care entity need to do to comply with the exclusion statute?
 - The physician should check the LEIE to see whether employees, medical staff, or contractors have been excluded before engaging them and monthly thereafter.
 - Remember, the Federal health care programs will not pay for any items or services provided by an excluded individual or entity, including those billed under the physician's provider number and administrative, management, or support services.

- This can include virtually every employee in the office—receptionists, billing employees, medical assistants, and appointment schedulers. Some workers, such as those employed exclusively to provide janitorial services, may not provide services that are part of the payments to the physician. But it's important to be very thoughtful about the duties of each employee and whether they are part of the payments.
- What happens at the end of exclusion?
 - An excluded physician must apply for reinstatement and have it granted by HHS-OIG before the Federal health care programs will pay for items or services provided, ordered, or prescribed by the physician.
 - Other excluded persons who are not physicians must also apply for reinstatement in order to be removed from the exclusion list. Individuals such as nurses who were excluded because they lost a health care license must apply to HHS-OIG for reinstatement even though they may have gotten the license back.
- Where can I get more information on exclusion?
 - HHS-OIG has published a Special Advisory Bulletin on the effect of exclusion, available here: <http://oig.hhs.gov/exclusions/advisories.asp>
 - You can also access FAQs about exclusion and contact information for HHS-OIG's Exclusions Program here: <http://oig.hhs.gov/contact-us/index.asp#exclusions>