LeadingAge Midwest
Illinois · Iowa · Missouri

Office of Inspector General Exclusion List

This resource document has been developed to help LeadingAge Iowa members understand the process for conducting Office of Inspector General (OIG) Exclusion List along with guidance on individuals on the exclusion list.

What is the OIG Exclusion List?

OIG has the legal authority to exclude individuals and entities from participation in all Federal health care programs, including all plans and programs that provide health benefits funded directly or indirectly by the United States (except the Federal Employees Health Benefits Program) or any State health care programs. These include State Medicaid programs, Maternal and Child Health Services Block Grant, Block Grants to Sates for Social Services, Children's Health Insurance Program.

OIG maintains a list of all currently excluded individuals and entities called the List of Excluded Individuals/Entities (LEIE).

When an individual is on the OIG LEIE, no Federal health care program can pay for items or services furnished by an excluded person or at the medical direction or prescription of an excluded person.

What are Mandatory Exclusions?

OIG is required by law to exclude individuals and entities from participating in all Federal health care programs when they are convicted of certain types of criminal offenses. These include:

- Offenses related to the delivery of items or services under Medicare or Medicaid
- Abuse/neglect of a patient
- Felony convictions of health care-related fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct
- Felony convictions related to the unlawful manufacture, distribution, prescription, or dispensing of controlled substances

What are Permissive Exclusions?

OIG has the discretion to exclude individuals and entities on a number of grounds which can include but are not limited to:

- Misdemeanor convictions related to health care fraud (not including Medicare or Medicaid)
- Fraud (other than a health care program) funded by the State, Federal, or Local government

- Suspension, revocation, or surrender of a license to provide health care for reasons bearing on professional competence, performance, or financial integrity
- Provision of unnecessary or substandard services
- Submission of false or fraudulent claims to a Federal health care program
- Engaging in actions that violate the Federal anti-kickback statute
- Defaulting on health education loans or scholarship obligations
- Controlling a sanctioned entity as an owner, officer, or managing employee

What should providers do to ensure individuals or entities are not on the OIG LEIE?

Providers participating in Federal health care programs should check the LEIE before employing or contracting with individuals and entities, and periodically check the LEIE to determine the exclusion status of current employees and contractors.

Since OIG updates the LEIE monthly, screening each month best minimizes potential overpayment and CMP liability.

States may also have LEIE. In addition to checking the Federal LEIE, you should also verify the individual/entity is not on the State LEIE. Similarly, if you hire individuals who are licensed in other states or contract with providers who practice in other states, you should also check that State's LEIE. Here are some Midwest state links to the LEIE:

- Iowa – https://hhs.iowa.gov/programs/welcome-iowa-medicaid/provider-services/excluded-individuals-and-entities
- Illinois – https://ilhfspartner3.dynamics365portals.us/sanctions/
- Wisconsin – no separate list
- Indiana – https://www.in.gov/fssa/ompp/provider-information4/termination-of-provider-participation-in-medicaid-and-chip
- Missouri – https://mmac.mo.gov/providers/provider-sanctions
- Nebraska - https://dhhs.ne.gov/pages/program-integrity-sanctioned-providers.aspx
- Minnesota – https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=DHS-295094
- South Dakota – no separate list

What happens if a health care provider employs or contracts with an individual or entity on the OIG LEIE?

OIG has the legal authority to impose Civil Monetary Penalties (CMPs) on individuals and entities that arrange or contract (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in a Federal

health care program for the purpose of providing items and services for which payment may be made by a Federal health program.

In addition to potential CMPs, the money received for the billed service(s) is considered an overpayment.

What should a provider do if they self-identify reimbursement for services and/or items was received from an excluded individual/entity?

Health care programs can complete a Health Care Fraud Self-Disclosure. This allows providers to voluntarily identify, disclose, and resolve instances of potential fraud involving the Federal health care program.

What are the benefits/risks of self-identifying potential fraud?

OIG believes that good faith disclosures of potential fraud and cooperation with the OIG's review and resolution process are indicators of a robust and effective compliance program. OIG states that in nearly all cases, health care providers who self-disclose have a likelihood of not being placed on the permissive exclusion list without requiring integrity measures. In addition, providers who self-disclose may receive a reduced CMP settlement. CMS also notes that if the self-disclosure is submitted in a timely manner (meaning within 60 days after the date on which the overpayment was identified or the date of any corresponding cost report is due) the repayment of the funds will be suspended until the settlement agreement is entered into, or the provider or supplier withdraws or is removed from the self-disclosure protocol.

Can an excluded individual/entity be reinstated?

Possibly. If an individual or entity is excluded from participating in Medicare, Medicaid, and all other Federal health care programs, they may receive a defined period of exclusion (such as 5 years, 10 years, etc). However, once the defined period of exclusion has passed, the individual or entity must apply for reinstatement. If the individual/entity has a defined period of exclusion, they can initiate the process of reinstatement 90 days before the end of the period.

If an individual or entity received an indefinite exclusion, they may apply for reinstatement once the license reference in the exclusion notice has been reissued. In addition, under some conditions an excluded individual or entity may apply for reinstatement if they:

- Have obtained a different health care license in the same state
- Have obtained any health care license in a different state
- Do not possess a valid health care license of any kind in any State but have been excluded for a minimum period of three (3) years.

Just because an individual or entity has a provider identification number, does not mean they have been reinstated.

To apply for reinstatement, an excluded individual or entity must send a written request which contains the individual's or entity's full name (if excluded under a different name, also include that name), date of birth for an individual, telephone number, email address, and mailing address. The request can be emailed or sent via standard mail.

Email: exclusions@oig.hhs.gov

Mailing: HHS, OIG, OI
Attn: Exclusions Branch
P.O. Box 23871
Washington, DC 20026

References:

United States Department of Health & Human Services Office of Inspector General. (2013, Apr. 17). *Updated OIG's Provider Self-Disclosure Protocol.* https://oig.hhs.gov/documents/self-disclosure-info/Provider-Self-Disclosure-Protocol_kfeSBPt.pdf

United States Department of Health & Human Services Office of Inspector General. (2023, Nov). *General Compliance Program Guidance.* https://oig.hhs.gov/documents/compliance-guidance/1135/hhs-oig-gcpg-2023.pdf

United States Department of Health & Human Services Office of Inspector General. (2024, Jul. 1). Exclusions FAQs: Answers to Questions Concerning Exclusions. https://oig.hhs.gov/faqs/exclusions-faq/