The Office of Inspector General (OIG) Exclusions Program

OIG has the authority to exclude individuals and entities from federally-funded health care programs pursuant to sections 1128 and 1156 of the Social Security Act. They are maintained on the List of Excluded Individuals and Entities (LEIE). Anyone that hires an individual or entity on the LEIE may be subject to civil monetary penalties (CMP), so an important part of any compliance program is to routinely check the OIG database to ensure that no one in your office is on the list.

**Mandatory exclusions:** The OIG is required, by law, to exclude individuals convicted of the following types of criminal offenses from participation in all federal health care programs:

- Medicare or Medicaid fraud
- Offenses related to delivery of items/services under Medicare, Medicaid, SCHIP or state healthcare programs
- Patient abuse or neglect
- Felony convictions for other healthcare-related fraud, theft, or financial misconduct
- Felony convictions related to unlawful manufacture, distribution, prescribing or dispensing of controlled substances

**Permissive exclusions:** The OIG has the discretion to exclude individuals and entities on the following grounds:

- Misdemeanor convictions related to health care fraud other than Medicare or a state health program
- Fraud in a program (other than a health care program) funded by any federal, state or local government agency
- Misdemeanor convictions relating to the unlawful manufacture, distribution, prescribing or dispensing of controlled substances
- Suspension, revocation or surrender of a license to provide health care for reasons related to professional competence, professional performance or financial integrity
- Providing unnecessary or substandard services
- Submitting false or fraudulent claims to a federal health care program
- Engaging in unlawful kickback agreements
- Defaulting on health education loan or scholarship obligations
- Controlling a sanctioned entity as an owner, officer or managing employee

To avoid CMP liability, healthcare entities must check the LEIE to ensure new hires and current employees are not on the excluded list. A routine search should be conducted monthly (the first year) for new employees and quarterly for those employed more than a year. See more on exclusions in the *Special Advisory Bulletin on the Effect of an Exclusion*, but the primary effect is that no payment is made for any items or services furnished, ordered or prescribed by someone on the list. This includes Medicare, Medicaid and all other federal plans and programs that provide health benefits funded directly or indirectly by the United States (exception: Federal Employees Health Benefits Plan).

The OIG’s exclusion process is governed by regulations that draw from sections of the Social Security Act. A Notice of Intent to Exclude does not necessarily mean that the individual or entity will be excluded. The OIG carefully considers all data provided by the person that receives the notice before making a decision. All exclusions implemented by the OIG can be appealed to an HHS Administrative Law Judge (ALJ), and adverse decisions can be appealed to the HHS Departmental Appeals Board (DAB). Judicial review in Federal court is available after a final decision is returned by the DAB.