

Department of Health and Human Services
Office of Inspector General



Office of Audit Services

September 2026 | A-02-24-01013

**Medicare Advantage Organizations
and Prescription Drug Plans Paid
\$72 Million During a 3-Year Period
for Services Associated With
Excluded Providers or Individuals
Convicted of Certain Felonies**

REPORT HIGHLIGHTS



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Medicare Advantage Organizations and Prescription Drug Plans Paid \$72 Million During a 3-Year Period for Services Associated With Excluded Providers or Individuals Convicted of Certain Felonies

Why OIG Did This Data Brief

- [CMS](#) contracts with Medicare Advantage organizations and private prescription drug plans (collectively referred to as plans) to offer Part C and Part D managed care benefits to eligible Medicare enrollees.
- CMS's Preclusion List is a database of providers, suppliers, and prescribers precluded from receiving payments for services provided under Medicare Parts C and D. Providers on the Preclusion List: (1) have been excluded from Federal health care programs, (2) have been convicted of certain felonies, or (3) have been or could have been revoked from the Medicare program for conduct that CMS determined is detrimental to the best interest of the Medicare program.
- We conducted this analysis to identify potential vulnerabilities in CMS's preclusion process related to certain providers whose National Provider Identifiers (NPIs) were revoked from Medicare Parts A and B enrollment. Our analysis covered 1,017 NPIs associated with revoked providers not included on CMS's Preclusion List during calendar years (CYs) 2022 through 2023.

What OIG Found

We identified vulnerabilities in CMS's preclusion process that contributed to plans making payments, totaling \$72 million, for Medicare Part C and Part D services to 249 of the 1,017 revoked NPIs during CYs 2022 through 2024. Specifically:

- There were timing issues and errors in CMS adding or removing providers from the Preclusion List.
- CMS did not include some organizations on the Preclusion List when their owners were excluded or had felony convictions.
- Under current regulations, pharmacies that do not prescribe Part D drugs and only fill prescriptions are not subject to preclusion.

This data brief does not contain any specific recommendations to CMS. However, information in this data brief may be beneficial in the development of future solutions, including Federal regulations and CMS guidance to address vulnerabilities in the preclusion process.



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Medicare Advantage Organizations and Prescription Drug Plans Paid \$72 Million During a 3-Year Period for Services Associated With Excluded Providers or Individuals Convicted of Certain Felonies

Key Takeaways:

For calendar years 2022 through 2024 (audit period), CMS's Preclusion List—which is used to determine whether providers, suppliers, and prescribers can receive payments under Medicare Parts C and D—did not include 249 National Provider Identifiers (NPIs) that CMS had revoked. Therefore, the Preclusion List failed to help prevent Medicare payments totaling \$72 million because:

- There were timing issues and errors in CMS's adding or removing providers from the Preclusion List.
- CMS did not add some NPIs registered as organizations to the Preclusion List when their owners were excluded or had felony convictions.
- Under current regulations, pharmacies that do not prescribe Part D drugs and only fill prescriptions are not subject to preclusion.

This data brief may be beneficial in the development of future solutions, including Federal regulations and CMS guidance to address vulnerabilities in its preclusion process.

Purpose of This Data Brief

The Centers for Medicare & Medicaid Services (CMS) contracts with Medicare Advantage (MA) organizations and private prescription drug plans (collectively referred to as plans) to offer Part C and Part D managed care benefits to eligible Medicare enrollees.¹

The CMS Preclusion List is a database of providers, suppliers, and prescribers precluded from receiving payments for services provided under Medicare Parts C and D. Providers on the Preclusion List: (1) have been excluded from Federal health care programs, (2) have been convicted of certain felonies, or (3) have been or could have been revoked from the Medicare program for conduct that CMS determined is detrimental to the best interest of the Medicare program.² The Preclusion List helps ensure patient

¹ Medicare Part C provides Part A (hospital insurance) and Part B (insurance for services such as outpatient services, doctor visits, and preventive care) coverage for Medicare enrollees, as well as extra coverage (such as vision, hearing, dental, etc.) in some cases. The benefits are provided by MA plans offered by public or private organizations. Medicare Part D offers prescription drug coverage to Medicare enrollees through their MA plans or separate Medicare drug plans.

² 42 CFR §§ 422.2 and 423.100.

protection and safety, and protects Medicare program dollars. CMS relies on Part C and Part D plans to ensure that precluded providers do not receive payment for Medicare services.

Our objective was to identify potential vulnerabilities in CMS's preclusion process related to certain revoked providers that were not precluded.

BACKGROUND

Medicare Advantage and Prescription Drug Payments and Provider Data

The Medicare program provides health insurance coverage to people aged 65 and over, people with disabilities, and people with end-stage renal disease. CMS contracts with plans to offer Part C and Part D managed care benefits to eligible Medicare enrollees. CMS pays each plan a monthly per-person amount (capitation payment) for each enrollee. Capitation payments are risk-adjusted to account for differences in health status between enrollees. To determine the risk adjustment, plans must submit to CMS valid Part C encounter data and Part D prescription drug event (PDE) data for each item or service provided to a Medicare enrollee.³

CMS's National Plan and Provider Enumeration System assigns unique NPIs to healthcare providers throughout the country. Providers must each obtain an NPI—a 10-digit number—to identify themselves on all Medicare transactions. Providers must also communicate any changes in registration data (e.g., change in contact person) associated with their NPIs within 30 days of the change. CMS collects and maintains information on NPIs and deactivates or reactivates NPIs upon receipt of appropriate information (e.g., provider deaths, dissolutions of provider organizations, and providers restarting their practices after moving to new locations). Plans must include providers' NPIs on all transactions that require providers to be identified,⁴ including encounter data and PDE data submitted to CMS.^{5, 6} Also, plans must have effective compliance programs to prevent, detect, and correct noncompliance with CMS's program requirements.⁷

³ 42 CFR §§ 422.310(b) and 423.329(b)(3).

⁴ 45 CFR §§ 162.410 and 162.412.

⁵ 42 CFR §§ 422.310(c)(2), (d)(5) and 423.329(b)(3).

⁶ CMS allows some provider fields to be optional for encounter data and PDE data submission (e.g., referring and rendering providers). In April 2021, OIG issued a study entitled [Medicare Advantage Organizations Are Missing Opportunities To Use Ordering Provider Identifiers to Protect Integrity](#) (OEI-03-19-00432). The study found that almost half of the MA organizations lacked ordering NPIs on at least some MA encounter records and raised concerns that this hinders data analysis for program integrity. Further, when MA organizations collect ordering NPIs on MA encounter records, most do not validate these NPIs against CMS's NPI registry.

⁷ 42 CFR §§ 422.503(b)(4)(vi) and 423.504(b)(4)(vi).

Exclusion of Medicare Providers

The Office of Inspector General (OIG) has the authority to exclude individuals and entities from Federally funded health care programs, including Medicare and Medicaid, for a variety of reasons, including a conviction for Medicare or Medicaid fraud.⁸ OIG maintains a database of all excluded providers known as the List of Excluded Individuals/Entities (LEIE). Federal law prohibits payment under Medicare for services provided or prescriptions written by excluded providers when plans know or have reason to know of the exclusion.^{9, 10} Additionally, Medicare Part C and Part D plans are required to ensure compliance with Federal regulations prohibiting them from contracting with excluded providers or any entity that employs or contracts with excluded providers.¹¹

Revocation of Providers from Medicare Enrollment

CMS may deny, deactivate, or revoke providers from Medicare Parts A and B enrollment for conduct that CMS determines is detrimental to the Medicare program.^{12, 13} Reasons for CMS revocation may include OIG exclusion, conviction for certain Federal or State felonies that CMS determines is detrimental to the best interests of the Medicare program, and failure to comply with reporting requirements.¹⁴ CMS maintains revocation data in its Medicare provider enrollment system and bars revoked providers from reenrollment in Parts A and B for a period determined by CMS (known as a reenrollment bar).¹⁵

⁸ Section 1128 of the Social Security Act.

⁹ Sections 1128 and 1862(e)(1) of the Act; 42 CFR §§ 422.222, 422.224, and 423.120; and 42 CFR § 1001.1901(b)(1).

¹⁰ OIG has the authority to waive a provider's exclusion from Medicare when the excluded provider is the sole community physician or the sole source of essential specialized services in a community and the exclusion would impose a hardship on Medicare enrollees. Each waiver is subject to the limitations described in the provider's waiver letter (42 CFR § 1001.1801).

¹¹ 42 CFR §§ 422.224(a), 422.503(b)(4)(vi), 422.752(a), 423.504(b)(4)(vi), and 423.752(a)(6).

¹² 42 CFR §§ 424.530, 424.535, and 424.540.

¹³ Medicare Part B helps cover services such as doctors' services and outpatient care. It also covers some other medical services that Part A (inpatient care) does not cover (e.g., physical therapy and home health care services).

¹⁴ Under 42 CFR § 424.535(a), CMS may revoke a provider for failure to report material data. Other reasons for revocation include misusing a billing number, abusing billing privileges, improper prescribing practices, provider revocation under a different identity, and any provider affiliation that poses an undue risk of fraud, waste, or abuse to the Medicare program, among others.

¹⁵ 42 CFR §§ 424.530 and 424.535.

CMS's Preclusion List

To ensure that revoked providers do not receive payment for Part C and Part D services, CMS also maintains a Preclusion List of excluded providers from OIG's LEIE, individuals with certain felony convictions, and other providers who have been or could have been revoked from the Medicare program if CMS determined that the underlying conduct is detrimental to the Medicare program.

Federal regulations prohibit plans from making payments for services provided or prescriptions written by providers on the Preclusion List.¹⁶ Plans that do not comply with preclusion requirements may be subject to sanctions and termination.¹⁷ CMS implemented these requirements on January 1, 2019, and required plans to begin rejecting claims on April 1, 2019, to ensure that they did not submit encounter data and PDE data associated with precluded providers.¹⁸ Pharmacies on the Preclusion List are not prohibited from filling prescriptions under Part D written by eligible prescribers.¹⁹ CMS confirmed that under current regulations, being placed on the Preclusion List alone does not prevent these pharmacies from being paid under Part D.

CMS Oversight of the Preclusion List

The Preclusion List contains individuals and entities that are currently or could be revoked from enrollment in Medicare or have been convicted of a Federal or State felony within the previous 10 years for conduct that CMS deems detrimental to the best interests of the Medicare program.²⁰ To determine whether an individual or entity's conduct is detrimental to the best interest of the Medicare program, CMS considers the seriousness of the conduct, its effects on the Medicare program, and any other evidence that CMS deems relevant to its determination.²¹ CMS has the discretion to not preclude or to remove a provider from the Preclusion List based on the degree to which Medicare enrollee access to Part C or D items, services, or drugs would be impaired and any evidence that CMS deems relevant to its determination.²²

¹⁶ 42 CFR §§ 422.222(a) and 423.120(c)(6).

¹⁷ 42 CFR §§ 422.222(b), 423.120(c)(6), 423.509, and 423.752(b).

¹⁸ CMS, Health Plan Management System (HPMS) Memo, *Preclusion List Requirements*, dated Nov. 2, 2018.

¹⁹ 84 Fed. Reg. 15680, 15791 (Apr. 16, 2019).

²⁰ 42 CFR §§ 422.2 and 423.100.

²¹ 42 CFR §§ 422.2 and 423.100.

²² 42 CFR §§ 422.222(a)(6) and 423.120(c)(6)(vi).

CMS identifies *revoked* providers by their NPIs, which are also used in Medicare transactions for services billed. However, CMS identifies *precluded* providers by their Taxpayer Identification Numbers (TINs), and each TIN may be associated with multiple NPIs registered to different provider practice locations. Therefore, a provider would not appear on the Preclusion List unless all NPIs under its TIN are revoked or inactive.²³ Also, a TIN can be an individual's Social Security number or an organization's employer identification number and, for preclusion purposes, CMS considers each TIN as a separate entity. Therefore, if an organization has a different TIN than its owner, according to CMS, CMS does not have the authority under current Federal regulations to preclude the organization because of the owner's conduct unless CMS has evidence that the owner enrolled the organization in Medicare using false or misleading information, or the owner is an excluded provider.²⁴

Prior to January 1, 2020, CMS precluded all providers for the same lengths of time as their reenrollment bars (i.e., the period providers were barred from reenrolling in Medicare). Effective January 1, 2020, CMS began precluding individuals convicted of certain felonies for 10-year periods beginning on their dates of felony conviction unless CMS determined that shorter periods were warranted. Also, excluded providers must remain precluded until their CMS-imposed preclusion periods expire or OIG reinstates them, whichever occurs later.²⁵ See Appendix B for a flowchart of CMS's process for precluding and reinstating providers.

Data Used to Develop This Data Brief

Our audit covered all NPIs associated with certain revoked providers not included on the Preclusion List during calendar years (CYs) 2022 through 2023. Specifically, we compared 7,991 revocations in CMS's Medicare provider enrollment system with 2,973 preclusions in effect during CYs 2022 through 2023. Our analysis identified 1,017 revoked NPIs associated with excluded providers or individuals with certain felony convictions not included on the Preclusion List as of December 31, 2023. We reviewed Medicare payment data for these providers, if any, through December 31, 2024.

²³ Before CMS adds a provider to the Preclusion List, it sends a notice letter to the provider, who may submit a reconsideration request to CMS. Excluded providers are precluded effective on the dates of their exclusion, and other providers are precluded either on the dates of their reconsideration denial or after 60 days if CMS does not receive a reconsideration request (42 CFR §§ 422.222(a) and 423.120(c)(6)).

²⁴ 42 CFR §§ 422.2 and 423.100.

²⁵ 84 Fed. Reg. 15680, 15783 (Apr. 16, 2019); 42 CFR §§ 422.222(a)(5)(iv) and 423.120(c)(6)(vii)(D).

HOW WE DID THIS ANALYSIS

For each of the 1,017 revoked NPIs that were not included on the Preclusion List, we reviewed data on the associated provider,²⁶ verified the provider's exclusion status on the OIG's LEIE, and verified the provider's preclusion status through December 31, 2024.

To determine whether plans made payments to excluded providers and individuals with certain felony convictions associated with the 1,017 revoked NPIs that were not included on the Preclusion List, we matched the NPIs to Medicare Part C encounter data and Part D PDE data for revocations effective during CYs 2022 through 2024 (audit period). Specifically, we matched the revoked NPIs to billing and rendering NPIs for encounter data and prescribing NPIs for PDE data to identify payments made by plans while the NPIs were revoked but not precluded by CMS. We also matched the revoked NPIs to pharmacy NPIs for PDE data to identify payments not prohibited by revocation or preclusion.²⁷

In addition, for each revoked NPI not precluded by CMS, we obtained and reviewed supporting information for CMS's determinations on whether the associated providers should be on the Preclusion List and identified potential vulnerabilities in the preclusion process. We acknowledge that CMS has discretion in determining which providers are placed on the Preclusion List. Therefore, our audit focused on identifying revoked providers that were not on the Preclusion List and why they were not precluded, as determined by CMS.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A describes our audit scope and methodology.

WHAT OIG FOUND

We identified vulnerabilities in CMS's preclusion process that contributed to plans making payments for Medicare Part C and Part D services to 249 of the 1,017 revoked NPIs. Specifically: (1) we identified timing issues and errors in CMS's preclusion process, (2) CMS did

²⁶ Specifically, we reviewed CMS's reason for revoking the provider and the provider's Medicare enrollment number, enrollment status, NPI, name, revocation and reenrollment bar dates, and reenrollment bar status.

²⁷ We identified for our audit the 1,017 revoked NPIs that were not included on the Preclusion List using the 7,991 revocations and 2,973 preclusions in effect as of Dec. 31, 2023. For the 7,991 revocations in effect as of Dec. 31, 2023, plans made payments totaling \$98,588,827 for Part C services and \$2,469,744,718 for Part D drugs during the audit period. For the 2,973 preclusions in effect as of Dec. 31, 2023, plans made payments totaling \$11,977 for Part C services and \$0 for Part D drugs during the audit period.

not preclude some organizations when their owners were excluded or had felony convictions, and (3) CMS does not have the authority under current regulations to prohibit payment to pharmacies for filling Part D prescriptions. We found that, during a 3-year period, plans made Medicare payments totaling \$72 million for Part C and Part D services associated with the 249 providers. The payments are detailed in the table below. For the remaining 768 revoked NPIs, plans did not make any payment for Part C services or Part D prescriptions.

Table: Payments for Part C and Part D Services During CYs 2022 Through 2024 Associated With Revoked NPIs that Were Not Included on the Preclusion List

Potential Vulnerability	Payments for Part C Services	Associated NPIs	Payments for Part D Services	Associated NPIs
Timing Issues and Errors in CMS's Preclusion Process	\$15,254,971	127	\$9,080,201	117
CMS Did Not Preclude Some Organizations When Their Owners Were Excluded or Had Felony Convictions	\$5,648,262	33	\$0	0
CMS Does Not Have the Authority Under Current Regulations to Prohibit Payment to Pharmacies for Filling Part D Prescriptions	N/A	N/A	\$42,021,169	12
Subtotal	\$20,903,232[†]	160	\$51,101,370	129
Total Payments for Part C and Part D Services			\$72,004,603[†]	249*

* The total does not add up to 249 because 36 of the revoked NPIs that we identified provided Part C services and prescribed Part D drugs, and 4 others provided Part C services and filled Part D prescriptions.

† Payment amounts do not add up to the total due to rounding.

Some Excluded Providers and Individuals Convicted of Certain Felonies Were Not Precluded Because of Timing Issues and Errors in CMS's Preclusion Process

CMS may revoke and preclude providers for conduct that CMS determines is detrimental to the Medicare program. Reasons for CMS revocation and preclusion include exclusion by OIG, conviction for a Federal or State felony that CMS determines is detrimental to the Medicare program, and failure to comply with reporting requirements.²⁸ However, this process can only

²⁸ 42 CFR §§ 422.2, 423.100, and 424.535(a).

begin after CMS identifies the exclusions, felony convictions, or other conduct detrimental to the Medicare program. In some cases, this detrimental conduct may not be reported by providers and not discovered for years by CMS.²⁹ Even after CMS identifies providers' conduct and revokes their enrollment and/or adds the providers to the Preclusion List, providers may appeal their revocations and preclusions, causing further delays, during which time the providers may be able to continue billing plans.³⁰

Also, CMS maintains a Medicare Exclusion Database (MED) that receives monthly updates from OIG's LEIE and uses the MED to identify excluded providers for its Preclusion List. Effective January 1, 2020, excluded providers must remain precluded until their CMS-imposed preclusion periods expire or OIG reinstates them, whichever is later. However, CMS has the discretion to not preclude a provider based on any evidence that CMS deems relevant to its determination. Also, if CMS determines that exceptional circumstances exist regarding patient access to care, it has discretion to remove a provider from the Preclusion List.³¹ While there are existing prohibitions on payment to excluded providers, CMS's Preclusion List can serve as an additional safeguard to prevent payment to these providers.

We determined that timing issues and errors in CMS's preclusion process related to its delayed discovery and action on provider conduct may have allowed some excluded providers and individuals with certain felony convictions to continue receiving payment for Part C services and writing Part D prescriptions years after their revocations. As shown in the table on page 7, plans made payments totaling \$15.3 million for Part C services to 127 providers whose NPIs were revoked and \$9.1 million to pharmacies for Part D drugs prescribed by 117 providers whose NPIs were revoked. Of these 244 providers, 36 provided both Part C services and prescribed Part D drugs. The payments were associated with 208 excluded providers and individuals convicted of certain felonies. For these providers, the median amount of time from their exclusions or felony convictions to preclusion, revocation expiration, appeal, reversal, provider death, or the end of our audit period was 535 days. During this period, these providers continued to bill Parts C and D.

Also, prior to reinstating four of the revoked providers described above, CMS did not check OIG's LEIE, which indicated that OIG had not yet reinstated the providers.³² For these four providers, plans made payments totaling \$1,407 for Part C services and \$3,048 for Part D drugs during the audit period. For these providers, the median amount of time from their exclusions or felony convictions to preclusion or the end of our audit period was 1,100 days.

²⁹ There is no legal requirement for how quickly CMS must add a revoked provider to the Preclusion List.

³⁰ 42 CFR §§ 422.222(a)(2) and 423.120(c)(6)(v).

³¹ 42 CFR §§ 422.222(a) and 423.120(c)(6).

³² After reviewing our analysis, CMS precluded two of the four providers and stated that the other two providers did not require preclusion. CMS also stated that, beginning in March 2024, it implemented a procedure to check the OIG's LEIE prior to reinstating revoked providers.

CMS Did Not Preclude Some Organizations When Their Owners Were Excluded or Had Felony Convictions

Unless an organization's owner is an excluded provider or CMS has evidence that the owner enrolled the organization in Medicare using false or misleading information, CMS does not preclude organizations from participation in Medicare Part C and Part D based on their owners' felony convictions. CMS asserts that, although Federal regulations authorize CMS to consider individuals convicted of certain felonies for preclusion, it does not have the authority under current Federal regulations to preclude their organizations.³³ According to CMS, if an organization has a different TIN from its owner, the organization is considered a separate entity for preclusion purposes. Also, the organization would not appear on the Preclusion List unless all NPIs under its TIN are revoked or inactive, even when the organization's owner is an excluded provider. Additionally, the organization's owner may continue enrolling in Part C under different NPIs and TINs to evade the preclusion process. In contrast, Federal regulations for Part B allow CMS to revoke an organization based on its owner's exclusion or felony conviction.³⁴

During our audit period, 33 revoked NPIs were not placed on the Preclusion List because they were registered to organizations with owners who were revoked and precluded for exclusions or felony convictions and had registered these organizations under separate TINs. As shown in the table on page 7, plans made payments totaling \$5.6 million for Part C services to these organizations. For the 33 NPIs, the median amount of time from the organization owners' exclusions or felony convictions through the end of our audit period was 1,029 days. During this period, these organizations continued to bill Part C.

To identify and prevent payments to provider organizations owned by precluded individuals, CMS stated that it relies on encounter data on rendering providers and PDE data on prescribers. However, CMS indicated that provider organizations are not required to include rendering provider information in encounter data submitted to Part C plans.

CMS Does Not Have the Authority Under Current Regulations to Prohibit Payment to Pharmacies for Filling Part D Prescriptions

According to CMS, pharmacies that only fill Part D prescriptions and have not enrolled as Part B health care providers are not subject to revocation and generally not included on the Preclusion List as a matter of practice. Also, pharmacies that have been revoked as Part B providers and included on the Preclusion List are not prohibited from receiving payment for filling Part D

³³ 42 CFR §§ 422.2 and 423.100.

³⁴ 42 CFR §§ 424.535(a)(2) and (3).

prescriptions written by eligible prescribers.³⁵ In a Frequently Asked Questions (FAQs) document on its website, CMS suggested that plans remove any precluded pharmacies from their networks as soon as possible but noted that plans have “discretion” on the matter.^{36, 37}

During our audit period, 12 revoked NPIs operated as pharmacies and filled Part D prescriptions that resulted in payments by plans totaling \$42 million, as shown in the table on page 7. For the 12 NPIs, the median amount of time from their exclusions or felony convictions to preclusion, revocation expiration, appeal, reversal, provider death, or the end of our audit period was 1,097 days. During this period, these pharmacies continued to bill Part D. CMS confirmed that under current regulations, being placed on the Preclusion List alone does not prevent these pharmacies from being paid under Part D.

Actions Taken by CMS

During our audit work, CMS reviewed the 1,017 revoked NPIs that we identified as not on the Preclusion List as of the end of CY 2023 and reported the following:

- CMS precluded 537 revoked NPIs.
- CMS stated that it could not preclude the 172 other revoked NPIs registered to organizations, including 8 that could not be precluded until the associated TINs were precluded.
- CMS stated that it determined that preclusion was not applicable for 232 of the revoked NPIs for various reasons (e.g., revocations had expired or were reversed on appeal).
- CMS stated that, after reviewing our analysis and conducting its own quality assurance checks, it planned to preclude the remaining 76 revoked NPIs.

CONCLUSION

CMS did not preclude some revoked providers from receiving payment for Medicare Part C and Part D services. Plans made payments totaling \$72 million for services associated with excluded providers and revoked providers convicted of certain felonies during the audit period. CMS subsequently precluded most of these providers but did not preclude some organizations and pharmacies.

³⁵ 84 Fed. Reg. 15680, 15791 (Apr. 16, 2019).

³⁶ CMS, HPMS Memo, *Preclusion List Frequently Asked Questions (FAQs)*, dated Dec. 16, 2020.

³⁷ Regardless of whether the excluded provider was on the Preclusion List, plans are still required to follow the existing requirements for excluded providers (i.e., not contracting with or paying excluded providers). Section 1862(e) of the Social Security Act; 42 CFR §§ 422.752(a)(8) and 423.752(a)(6).

CMS did not preclude some organizations when their owners were excluded or had felony convictions. Also, CMS stated that it does not have the authority under the regulations to prohibit payment to pharmacies for filling Part D prescriptions. CMS could review and consider strengthening current Federal regulations and implementation guidance to prevent revoked and precluded providers from using organizations with different TINs to continue receiving payment for Medicare Part C and Part D services. CMS could also explore other opportunities to strengthen the preclusion process.

This data brief does not contain any specific recommendations to CMS. However, information in this data brief may be beneficial in the development of future solutions, including Federal regulations and CMS guidance to address vulnerabilities in the preclusion process.

We issued a draft of this data brief to CMS. CMS provided technical comments, which we addressed as appropriate.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

Scope

Our audit covered all NPIs associated with certain revoked providers not included on the Preclusion List during CYs 2022 through 2023.

Our objective did not require an overall assessment of CMS's internal control structure. Rather, we interviewed CMS officials about their oversight of revocation data in CMS's Medicare provider enrollment system and the Preclusion List and reviewed CMS requirements and guidance related to the revocation and preclusion of excluded providers and individuals convicted of certain felonies.

We conducted our audit from July 2024 through March 2026, which included discussing the results of the audit with CMS officials.

Audit Methodology

We took the following steps to accomplish our objective:

- Reviewed applicable Federal laws, regulations, and guidance
- Met with CMS officials to gain an understanding of and obtain information related to CMS's administration of revocation data in CMS's Medicare provider enrollment system and the Preclusion List, including policies and procedures for revoking and precluding providers
- Obtained and analyzed revocation and preclusion data in effect during CYs 2022 through 2023, and identified 1,017 NPIs associated with excluded providers and revoked providers convicted of certain felonies that were not on the Preclusion List as of December 31, 2023³⁸
- Analyzed the 1,017 revoked NPIs identified as being associated with excluded providers and individuals convicted of certain felonies, verified their exclusion status on the OIG LEIE, and tracked their status on the Preclusion List through December 31, 2024, to determine the number of days the NPIs were revoked but not precluded by CMS
- Obtained and reviewed supporting information for CMS's determinations on whether the 1,017 revoked NPIs should be on the Preclusion List

³⁸ Specifically, we compared 7,991 revocations with 2,973 preclusions in effect during CYs 2022 through 2023.

- Determined whether plans made payments to excluded providers and individuals convicted of certain felonies associated with the 1,017 revoked NPIs that were not precluded from participating in the Medicare program during the audit period by:
 - Matching the revoked NPIs to billing and rendering NPIs for encounter data to identify payments made by Part C plans
 - Matching the revoked NPIs to prescribing and pharmacy NPIs for PDE data to identify payments made by Part D plans
- Discussed the results of our audit with CMS officials

We issued a draft of this data brief to CMS. CMS provided technical comments, which we addressed as appropriate.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: CMS PROCESS FOR PRECLUDING AND REINSTATING PROVIDERS

Criteria for Addition to Preclusion List

CMS may add a provider to the Preclusion List for any of the following reasons:

- The provider is excluded from Medicare, Medicaid, or other Federal programs (based on OIG's LEIE).
- The provider has certain felony convictions within the past 10 years.
- CMS determines that the provider's conduct is detrimental to the Medicare program.

CMS has the discretion to not preclude a provider based on its determination.



Preclusion Process

1. CMS identifies a provider who is revoked, excluded, or convicted of a felony.
2. CMS determines if the provider's conduct is detrimental to the Medicare program.
3. CMS sends a preclusion notice letter to the provider for all NPIs under the provider TIN.
4. CMS precludes the provider based on the exclusion date, if applicable, or 60 days after the notice date if not appealed.
5. CMS updates the Preclusion List effective for the following month with claims rejection beginning 90 days after the preclusion date.

Criteria for Removal from Preclusion List

- A revoked provider is precluded until expiration of the reenrollment bar.
 - Effective 1/1/2020, a provider with a felony conviction is precluded until 10 years after the felony conviction.
 - Effective 1/1/2020, an excluded provider is precluded until the expiration of the exclusion or the reenrollment bar, whichever occurs later.
 - A provider may appeal the preclusion by submitting a reconsideration request to CMS.
- CMS has the discretion to reinstate a provider based on its determination.



Reinstatement Process

- 1a. CMS reinstates a provider based on the reinstatement date listed or the provider's successful appeal.
- 1b. A successful appeal before the preclusion date results in no preclusion for the provider.
- 1c. A successful appeal after the preclusion date results in reinstatement of the provider.
2. In 3/2024, CMS began checking for an active exclusion before it reinstates a provider based on expiration of the reenrollment bar or felony conviction.

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