



The Office of Inspector General Exclusion Program

July 2019



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DHHS/OIG



Overview

- HHS OIG statutory authority to exclude individuals and entities from Federal Health Care Programs
 - Medicare
 - Medicaid
 - Any other healthcare program funded directly or indirectly by the United States government.
- Does not affect a person's rights to receive program benefits
- Remedial, not punitive
- Over 72,000 individuals currently excluded





Effect of an Exclusions

- No payment will be made by any Federal health care program for any –
 - Item or service –
 - Furnished, ordered, or prescribed –
 - By an excluded individual or entity.
- Applies to:
 - The excluded person,
 - Anyone who employs/contracts,
 - Anywhere the excluded party could provide services.
- Reinstatement is **NOT** automatic





Legal basis

- Social Security Act , Sections 1128 and 1156
- Statute, 42 U.S.C. § 1320a-7
- Code of Federal Regulation, 42 CFR 1001
- Mandatory and Permissive Exclusion





Sources

- HHS OI
- MFCUs
- CMS CPI
- Other Law enforcement
- State Licensing Board and Medicaid Agencies
- Internet discovery (DoJ Press releases / local articles)





Mandatory Exclusions

- 4 mandatory exclusion authorities (Convictions Only)
- 1128(a) SSA
- 42 CFR 1001.101
- OIG mandated to excluded
- Statutory minimum is 5 years
- Final length based on aggravating (AF) and mitigating factors (MF). Most common:
 - AF - Restitution, incarceration, length of scheme, administrative sanctions, beneficiary impact
 - MF - Cooperation





Convicted means that—

A judgment of conviction has been entered against an individual or entity by a Federal, State or local court, regardless of whether:

- There is a post-trial motion or an appeal pending, or
- The judgment of conviction or other record relating to the criminal conduct has been expunged or otherwise removed;
- A Federal, State or local court has made a finding of guilt against an individual or entity;
- A Federal, State or local court has accepted a plea of guilty or nolo contendere by an individual or entity; or
- An individual or entity has entered into participation in a first offender, deferred adjudication or other program or arrangement where judgment of conviction has been withheld.





Exclusions

Permissive Exclusions

- 16 permissive exclusion authorities.
- 1128(b) Social Security Act
- 42 CFR 1001.201 et seq
- Varied basis for actions / periods of exclusion (Convictions and administrative sanctions).
- OIG has discretion to impose these sanctions.





Exclusions Process

- Analyst receives a referral for exclusion
- Investigations Identify appropriate authority
- **Verifies Identity (SSN, DoB, NPI, address)**
- Mails notice of intention to exclude (30 days)
- Submits case to supervisor for review
- Determination by Reviewing Official
- Notice Letter sent to excluded party, State Medicaid and Licensing Boards
- Monthly Updates to LEIE and SAM.GOV
- LEIE data shared with Federal agencies
- 90-120 day average processing time





Reinstatement Process

- Not automatic
- Written Request to obtain an application
- Investigation of history since exclusion
 - Potential for CMP / referrals
 - Up to 120 days to complete
- Reinstatement effective date of signed letter
- Notifications sent to MFCU, Title V/XIII/XIX agency and administrative contractors
- Removed from the LEIE on the next monthly update





MFCU Referrals

- Performance Standard 8 – Cooperation with Federal Authorities.
- OIG’s revised regulation, 42 CFR part 1007, effective May 21, 2019
 - The Unit will transmit to OIG pertinent information on all convictions, including charging documents, plea agreements, and sentencing orders, for purposes of program exclusion under section 1128 of the Act.
 - Convictions include those obtained either by Unit prosecutors or non-Unit prosecutors in any case investigated by the Unit.
 - Such information will be transmitted to OIG within 30 days of sentencing, or as soon as practicable if the Unit encounters delays in receiving the necessary information from the court.





MFCU Referrals

- What we REALLY need to excluded:
 - Charging documents: Indictment or equivalent, amendments, probable cause statements, etc.
 - Plea agreement: Anything that documents a plea
 - Sentencing: Judgement and Conviction document
 - Additional Information: Investigation Summary, full name, current address, DOB, SSN, NPI
- New in 2018: OIG Submit Convictions service
 - 1,850+ MFCU submissions since roll out in 2018
 - 800+ Exclusions completed





Submit Conviction Service

<https://submit-mfcu-convictions.oig.hhs.gov/start/>

MFCU Activities and OIG Oversight

Onsite Review Reports	+
OIG Annual Reports	+
Expenditures & Statistics	+
Data Mining Applications	
Reporting MFCU Information to OIG	-
Submit Convictions for Exclusion	
<p>Submit Convictions for Exclusion is a digital service to assist in the reporting of MFCU conviction information to OIG for purposes of program exclusion under section 1128 of the Social Security Act. MFCU performance standards state that MFCUs should, on a timely basis, transmit to OIG all pertinent information on MFCU convictions.</p>	
<p>▫ Go to the Submit Convictions service</p>	



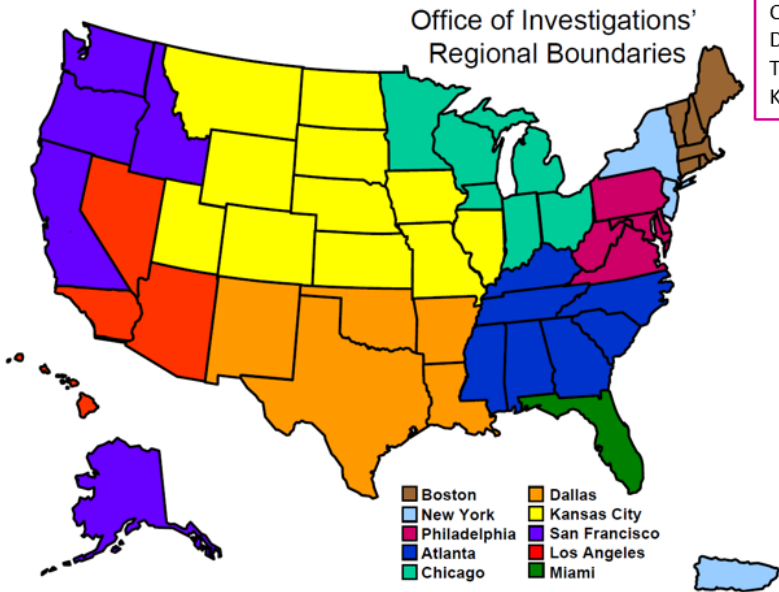


Geographical Responsibilities

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Terry Hoffman (E)
KY, PA, DC, WV

- Atlanta Regional Office**
Dorothy Swift (E)
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As of July 2019



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Resources

- Public Phone Number: 202-691-2311
- Public email account: sanction@oig.hhs.gov
- Website: <https://oig.hhs.gov/exclusions/index.asp>

