

§ 1001.1051

42 CFR Ch. V (10-1-03 Edition)

*Ownership interest* means an interest in:

- (i) The capital, the stock or the profits of the entity, or
- (ii) Any mortgage, deed, trust or note, or other obligation secured in whole or in part by the property or assets of the entity.

(b) *Length of exclusion.* (1) Except as provided in § 1001.3002(c), exclusions under this section will be for the same period as that of the individual whose relationship with the entity is the basis for this exclusion, if the individual has been or is being excluded.

(2) If the individual was not excluded, the length of the entity's exclusion will be determined by considering the factors that would have been considered if the individual had been excluded.

(3) An entity excluded under this section may apply for reinstatement at any time in accordance with the procedures set forth in § 1001.3001(a)(2).

[57 FR 3330, Jan. 29, 1992, as amended at 64 FR 39427, July 22, 1999]

**§ 1001.1051 Exclusion of individuals with ownership or control interest in sanctioned entities.**

(a) *Circumstance for exclusion.* The OIG may exclude any individual who—

- (1) Has a direct or indirect ownership or control interest in a sanctioned entity, and who knows or should know (as defined in section 1128A(i)(6) of the Act) of the action constituting the basis for the conviction or exclusion set forth in paragraph (b) of this section; or
- (2) Is an officer or managing employee (as defined in section 1126(b) of the Act) of such an entity.

(b) For purposes of paragraph (a) of this section, the term "sanctioned entity" means an entity that—

- (1) Has been convicted of any offense described in §§ 1001.101 through 1001.401 of this part; or
- (2) Has been terminated or excluded from participation in Medicare, Medicaid and all other Federal health care programs.

(c) *Length of exclusion.* (1) If the entity has been excluded, the length of the individual's exclusion will be for the same period as that of the sanctioned entity with which the individual has the prohibited relationship.

(2) If the entity was not excluded, the length of the individual's exclusion will be determined by considering the factors that would have been considered if the entity had been excluded.

(3) An individual excluded under this section may apply for reinstatement in accordance with the procedures set forth in § 1001.3001.

[63 FR 46689, Sept. 2, 1998]

**§ 1001.1101 Failure to disclose certain information.**

(a) *Circumstance for exclusion.* The OIG may exclude any entity that did not fully and accurately, or completely, make disclosures as required by section 1124, 1124A or 1126 of the Act, and by part 455, subpart B and part 420, subpart C of this title.

(b) *Length of exclusion.* The following factors will be considered in determining the length of an exclusion under this section—

- (1) The number of instances where full and accurate, or complete, disclosure was not made;
- (2) The significance of the undisclosed information;
- (3) Whether the individual or entity has a documented history of criminal, civil or administrative wrongdoing (The lack of any prior record is to be considered neutral);
- (4) Any other facts that bear on the nature or seriousness of the conduct;
- (5) The availability of alternative sources of the type of health care services provided by the entity; and
- (6) The extent to which the entity knew that the disclosures made were not full or accurate.

[57 FR 3330, Jan. 29, 1992, as amended at 63 FR 46689, Sept. 2, 1998]

**§ 1001.1201 Failure to provide payment information.**

(a) *Circumstance for exclusion.* The OIG may exclude any individual or entity that furnishes items or services for which payment may be made under Medicare or any of the State health care programs and that:

- (1) Fails to provide such information as is necessary to determine whether such payments are or were due and the amounts thereof, or
- (2) Has refused to permit such examination and duplication of its records