

§ 1001.3003

42 CFR Ch. V (10–1–03 Edition)

§ 1001.1001 will be reinstated upon a determination by the OIG that the individual whose conviction, exclusion or civil money penalty was the basis for the entity's exclusion—

(1) Has properly reduced his or her ownership or control interest in the entity below 5 percent;

(2) Is no longer an officer, director, agent or managing employee of the entity; or

(3) Has been reinstated in accordance with paragraph (a) of this section or § 1001.3005.

(d) Reinstatement will not be effective until the OIG grants the request and provides notice under § 1001.3003(a) of this part. Reinstatement will be effective as provided in the notice.

(e) A determination with respect to reinstatement is not appealable or reviewable except as provided in § 1001.3004.

(f) An ALJ may not require reinstatement of an individual or entity in accordance with this chapter.

[57 FR 3330, Jan. 29, 1992, as amended at 63 FR 46691, Sept. 2, 1998; 64 FR 39427, July 22, 1999]

§ 1001.3003 Approval of request for reinstatement.

(a) If the OIG grants a request for reinstatement, the OIG will—

(1) Give written notice to the excluded individual or entity specifying the date of reinstatement;

(2) Notify CMS of the date of the individual's or entity's reinstatement;

(3) Notify appropriate Federal and State agencies that administer health care programs that the individual or entity has been reinstated into all Federal health care programs; and

(4) To the extent applicable, give notice to others that were originally notified of the exclusion.

(b) A determination by the OIG to reinstate an individual or entity has no effect if a Federal health care program has imposed a longer period of exclusion under its own authorities.

[64 FR 39428, July 22, 1999]

§ 1001.3004 Denial of request for reinstatement.

(a) If a request for reinstatement is denied, OIG will give written notice to the requesting individual or entity.

Within 30 days of the date on the notice, the excluded individual or entity may submit:

(1) Documentary evidence and written argument against the continued exclusion,

(2) A written request to present written evidence and oral argument to an OIG official, or

(3) Both documentary evidence and a written request.

(b) After evaluating any additional evidence submitted by the excluded individual or entity (or at the end of the 30-day period, if none is submitted), the OIG will send written notice either confirming the denial, and indicating that a subsequent request for reinstatement will not be considered until at least one year after the date of denial, or approving the request consistent with the procedures set forth in § 1001.3003(a).

(c) The decision to deny reinstatement will not be subject to administrative or judicial review.

§ 1001.3005 Reversed or vacated decisions.

(a) An individual or entity will be reinstated into Medicare, Medicaid and other Federal health care programs retroactive to the effective date of the exclusion when such exclusion is based on—

(1) A conviction that is reversed or vacated on appeal;

(2) An action by another agency, such as a State agency or licensing board, that is reversed or vacated on appeal; or

(3) An OIG exclusion action that is reversed or vacated at any stage of an individual's or entity's administrative appeal process.

(b) If an individual or entity is reinstated in accordance with paragraph (a) of this section, CMS and other Federal health care programs will make payment for services covered under such program that were furnished or performed during the period of exclusion.

(c) The OIG will give notice of a reinstatement under this section in accordance with § 1001.3003(a).

(d) An action taken by the OIG under this section will not require any other

Federal health care program to reinstate the individual or entity if such program has imposed an exclusion under its own authority.

(e) If an action which results in the retroactive reinstatement of an individual or entity is subsequently overturned, the OIG may reimpose the exclusion for the initial period of time, less the period of time that was served prior to the reinstatement of the individual or entity.

[57 FR 3330, Jan. 29, 1992, as amended at 64 FR 39428, July 22, 1999; 67 FR 11935, Mar. 18, 2002]

PART 1002—PROGRAM INTEGRITY—STATE-INITIATED EXCLUSIONS FROM MEDICAID

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AUTHORITY: 42 U.S.C. 1302, 1320a-3, 1320a-5, 1320a-7, 1396(a)(4)(A), 1396(p)(1), 1396a(30), 1396a(39), 1396b(a)(6), 1396b(b)(3), 1396b(i)(2) and 1396b(q).

SOURCE: 57 FR 3343, Jan. 29, 1992, unless otherwise noted.

Subpart A—General Provisions

§ 1002.1 Scope and purpose.

The regulations in this part specify certain bases upon which individuals and entities may, or in some cases must, be excluded from participation in the Medicaid program. These regulations specifically address the authority of State agencies to exclude on their own initiative, regardless of whether the OIG has excluded an individual or entity under part 1001 of this chapter. These regulations also delineate the States' obligation to inform the OIG of certain Medicaid-related convictions.

§ 1002.2 General authority.

(a) In addition to any other authority it may have, a State may exclude an individual or entity from participation in the Medicaid program for any reason for which the Secretary could exclude that individual or entity from participation in the Medicare, Medicaid and other Federal health care programs under sections 1128, 1128A or 1866(b)(2) of the Social Security Act.

(b) Nothing contained in this part should be construed to limit a State's own authority to exclude an individual or entity from Medicaid for any reason or period authorized by State law.

[57 FR 3343, Jan. 29, 1992, as amended at 64 FR 39428, July 22, 1999]

§ 1002.3 Disclosure by providers and State Medicaid agencies.

(a) *Information that must be disclosed.* Before the Medicaid agency enters into or renews a provider agreement, or at any time upon written request by the Medicaid agency, the provider must disclose to the Medicaid agency the identity of any person described in § 1001.1001(a)(1) of this chapter.

(b) *Notification to Inspector General.* (1) The Medicaid agency must notify the Inspector General of any disclosures made under paragraph (a) of this section within 20 working days from the date it receives the information.

(2) The agency must promptly notify the Inspector General of any action it takes on the provider's application for participation in the program.