



The OMIG Exclusion and Reinstatement Process

Division of Medicaid Investigations

September 29, 2014

Albany, New York

MISSION STATEMENT

Our mission is to enhance the integrity of the New York State Medicaid program by preventing and detecting fraudulent, abusive, and wasteful practices within the Medicaid program and recovering improperly expended Medicaid funds while promoting high-quality patient care.

Quick Reader (QR) Code

Before we begin today's presentation, we would like to announce a new convenience for providers that can be added to your mobile devices. This is a QR reader, and it can be scanned, taking you directly to the exclusions page on the OMIG Web site.



Today's Contributors

- ❑ Christopher Mulhall, Assistant Medicaid Inspector General
- ❑ Julia McPherson, Management Specialist 3
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Mission Statement of the Administrative Remedies Unit (ARU)

To protect the Medicaid program and its recipients from providers who pose a risk.

OMIG has authority to sanction individuals and entities.

Authority To Sanction

18 NYCRR 515.3

Upon a determination that a person has engaged in an unacceptable practice, the department may impose one of the following sanctions:

- Exclusion
- Censure
- Conditional/Limited Participation

Types of Sanctions

- ❑ Immediate Sanctions 515.7
 - Indictment
 - Conviction
 - Imminent Danger
 - Professional Misconduct
- ❑ Mandatory Exclusion 515.8
 - HHS/OIG Medicare Exclusion
- ❑ Sanctions Based on Unacceptable Practices 515.2
 - 18 Unacceptable practices defined in the regulations

Immediate Sanctions

18 NYCRR 515.7

Indictment

Immediate Sanctions (Continued)

18NYCRR 515.7

- Indictment
- Conviction

Immediate Sanctions (Continued)

18 NYCRR 515.7

- Indictment**
- Conviction**
- Imminent Danger**

Immediate Sanctions (Continued)

18 NYCRR 515.7

- Indictment**
- Conviction**
- Imminent Danger**
- Professional Misconduct**

OPMC and OPD Proposed Consent Order Reviews

- Providers who are in negotiation with either OPMC or OPD may send their proposed consent orders to OMIG's Office of Counsel (OOC) for a pre-determination of possible Medicaid sanctions.

Appeals of Immediate Sanctions

- Whether the determination was based upon a mistake of fact
- Whether any crime charged in an indictment, or conviction of a crime, resulted from furnishing or billing for medical care, service, or supplies
- Whether the sanction imposed was reasonable

Mandatory Exclusions

□ 18 NYCRR 515.8

□ **Federal Medicare Exclusion**

Sanctions Based on Unacceptable Practices

□ Unacceptable Practices 515.2

- 18 Unacceptable practices as defined in the regulations

Type of Sanctions

- ❑ Immediate Sanctions 515.7
 - ❑ Indictment
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 - ❑ 18 Unacceptable practices as defined in the regulations

Information Sources for Sanctions

- ❑ Office of Professional Discipline (OPD)
- ❑ Office of Professional Medical Conduct (OPMC)
- ❑ Health and Human Services (HHS)
- ❑ Medicaid Fraud Control Unit (MFCU)
- ❑ Referrals from other states
- ❑ Office of Medicaid Inspector General
 - Prosecutor Web sites searches, referrals from other state agencies, and OMIG audits and investigations

Basis for Action

- Unacceptable practices
- Consent order/determination and order
- Indictment/conviction
- Federal exclusion
- Affiliation

What Does It Mean to be Excluded?

18 NYCRR 515.5(c)

“A person who is excluded from the program cannot be involved in any activity relating to furnishing medical care, services, or supplies to recipients of medical assistance for which claims are submitted to the program, or relating to claiming or receiving payment for medical care, services or supplies during the period.”

Best Practice

- HHS Center for Medicare and Medicaid Services (CMS)
 - Verify that a person is not excluded when they are hired
 - Verify every 30 days that current employees have not been excluded
 - Search the HHS/OIG List of Excluded Individuals and Entities (LEIE)
 - Search the OMIG list of restricted or excluded individuals or entities on OMIG Web site

Identifying Excluded Providers

Excluded Medicaid providers are placed on OMIG's Exclusion List available on the OMIG Web site, which enables any organization access to review for disqualified providers.

<http://omig.ny.gov/data>

Medicaid Inspector General



Governor

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James C. Cox
Medicaid Inspector General

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Providers



Payers



Businesses



Consumers



Report Fraud



You can help stop Medicaid fraud: Call OMIG's Fraud Hotline at 1-877-87 FRAUD (1-877-873-7283), or click [here](#) to file a complaint electronically.

Latest News

Physician Referred By OMIG Pleads Guilty To Criminal Sale Of Controlled Substances

10 September 2014

Dr. Andrew Russo became the subject of a claims review after potential billing irregularities were i [...]

Nurse Who Billed Medicaid While On Caribbean Cruise Sentenced

20 August 2014

The Office of the Medicaid Inspector General (OMIG) received a complaint in September 2011 alleging [...]

Providers Should View The Self Disclosure Webinar

Check for Termination and Exclusions



some providers are being removed from participating in the Medicaid program. These providers are excluded from

GOVERNOR ANDREW M. CUOMO

Episode 30: "Never Forget"

WHAT'S NEW

September 12, 2014
Governor Cuomo Announces Child Passenger Safety Waiver



You are here: [Home](#) ▶ [Fraud](#) ▶ Medicaid Terminations and Exclusions

Medicaid Terminations and Exclusions

The Medicaid program wants to ensure that the best medical professionals participate in the Medicaid program. When the Program finds good reason that a provider should no longer be eligible to participate, they are placed on a list of excluded providers. To access this list, click on the link below, and read the [explanation and disclaimers regarding the list of terminations and exclusions](#).

List Options:

1. List of Exclusions:

 [Search](#) - A search for Exclusions with the ability to search for five names at once.

• Download Exclusion List Options:

- [Formatted list](#) - A complete, formatted copy of the List of Exclusions.
- [Tab delimited list](#) - A complete list of Exclusions suitable for importing into applications or desktop spreadsheets.
- [Export to Excel](#) - A complete list of Exclusions.
- [Short List](#) - A list of exclusions that commenced in the last 30 days.

2. List of Terminations:

- [View](#) - A complete list of providers who have had their enrollment in the Medicaid program terminated. Control F will allow the viewer to search list by name.

Additional Resources for Provider Information:

1. [Professional Discipline](#). This Web site, hosted by the Office of Professions within the New York State Department of Education, contains summary information of disciplinary actions taken against licensees by the Board of Regents in New York State since January 1, 1994.
2. [Professional Misconduct and Physician Discipline](#). This Web site, hosted by the Office of Professional Medical Conduct within the New York State Department of Health, offers a search capability for public documents regarding Professional Misconduct and Physician Discipline actions taken since 1990 for physicians, physician assistants, and nurse practitioners.

New York State Office of the Medicaid Inspector General



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Governor

James C. Cox
Medicaid Inspector General

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List of Restricted and Excluded Providers Search

Search up to 5 names.

List reflects most recent action taken against provider.

ATTENTION: Please only enter the person's first and last name.

If a business, then only enter the first two words of the name of the business.

[Click here for OMIG Exclusion Search Tips](#)

Name:

Name:

Name:

Name:

Name:

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Search OMIG

GO

You are here: [Home](#) > Search Exclusions Results

Print Results

Export to CSV

[Search Again](#)

You searched for: smith

List Execution Date: September 15 2014 09:11:47.

Records returned: 25.

Data was last updated: September 14 2014 18:00:09.

Provider Name	License Number	NPI Number	Provider Type	Sanction Date	Action Type	SSN/
FINESMITH BOSS BRADLEY	00400000		Physician	05/02/2014	Exclusion - 18NYCRR515.7()	Verify
GOLDSMITH BRISTON L	00006467		DDA	07/10/2009	Exclusion - 18NYCRR515	Verify
DEIBEN SCOTT SMITH MD	00467044		Physician	07/20/2014	Exclusion - 18NYCRR515.	Verify
SMITH ALICIA	00000044		..	00/00/2010	Exclusion - 18NYCRR515.	Verify
SMITH CARL			PHYSICIAN	00/00/2000	Exclusion - 18NYCRR515	Verify
SMITH CHRISTINA LDM	00000000		LDM	07/10/2011	Exclusion - 18NYCRR515.7()	Verify
SMITH CHRISTINE			Owner	07/20/2007	Exclusion - 18NYCRR515.7()	Verify
SMITH Sam			Physician	12/10/2014	Excl	Verify
SMITH HARRY			FORMER OWNER OF HOME FOR ADULTS	07/30/2017	Exclusion - 18NYCRR515	Verify
SMITH JOHN WILLIAM	00000000		Physician	00/00/2000	Exclusion - 18NYCRR515	Verify

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You are here: [Home](#) ▶ [Search Exclusions Verification](#)

[Search Again](#)

Source data updated on: September 11 2014 18:00:05 EST

Search conducted: September 12 2014 15:19:58 EST

Provider Name: SMITH, JESSICA
License Number: 00000011
NPI Number:
Provider Type: Nurse
Sanction Date: 09/02/2010
Action Type: Exclusion - 18NYCRR515

Enter only numbers. Last 4 of SSN Format (2224), FEIN format (222446666).
Only one type of search (Last 4 of SSN or FEIN) can be processed at a time.

Last 4 of SSN:

FEIN:



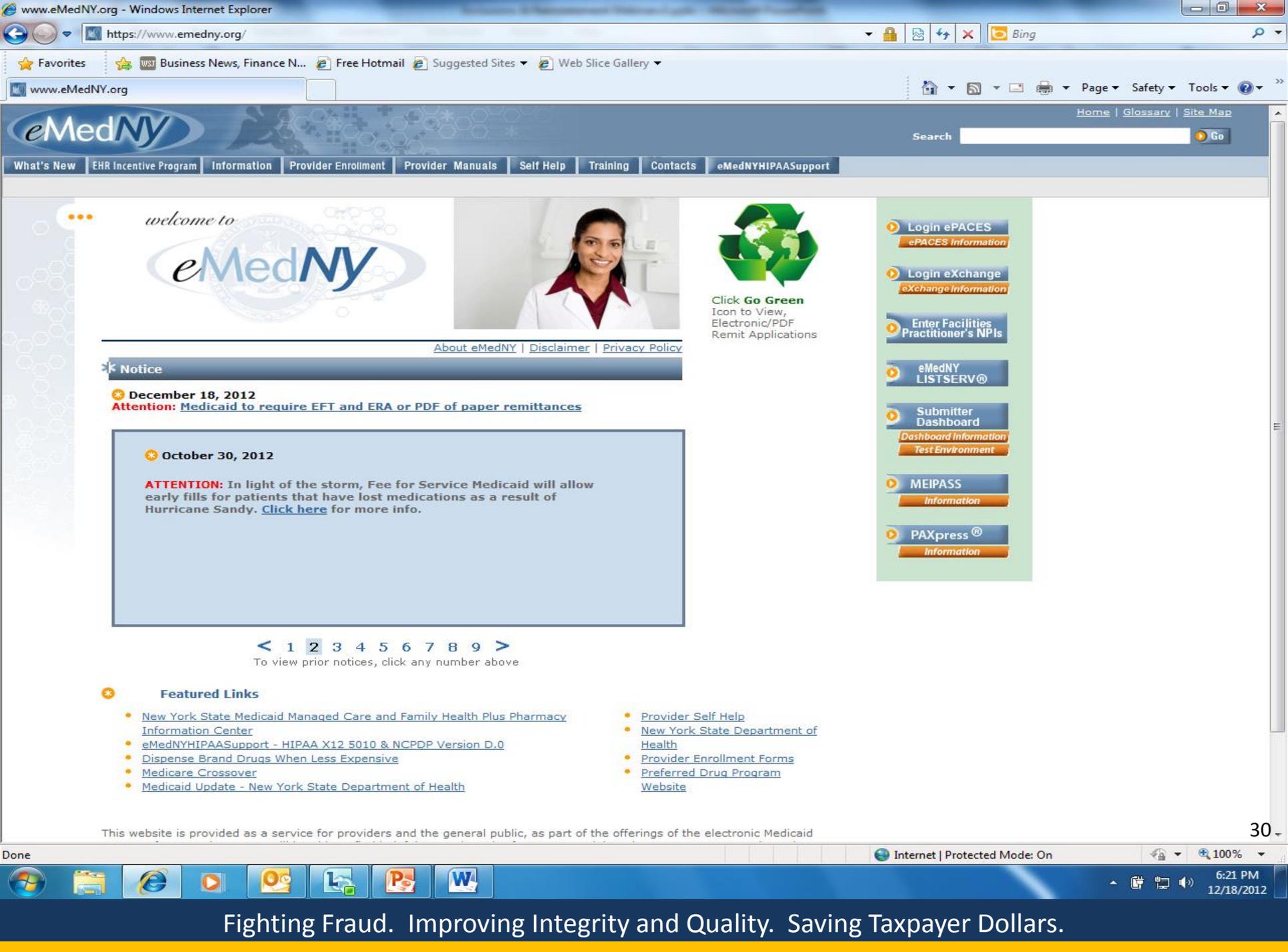
Our mission is to enhance the integrity of the New York State Medicaid program by preventing and detecting fraudulent, abusive, and wasteful practices within the Medicaid program and recovering improperly expended Medicaid funds while promoting high-quality patient care.

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- OMIG Remote Email
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REINSTATEMENT PROCESS

Application for Reinstatement

- ❑ Applications on www.emedny.org site
- ❑ Submit to Computer Sciences Corporation (CSC)
- ❑ Applications reviewed by New York State Department of Health (DOH) prior to review by OMIG
- ❑ Secondary review by OMIG/Enrollment Assessment Unit (EAR)



Click **Go Green**
Icon to View,
Electronic/PDF
Remit Applications

Login ePACES
ePACES Information

Login eXchange
eXchange Information

Enter Facilities
Practitioner's NPIs

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Dashboard
Dashboard Information
Test Environment

MEIPASS
Information

PAXpress®
Information

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Notice

*** December 18, 2012**
Attention: [Medicaid to require EFT and ERA or PDF of paper remittances](#)

*** October 30, 2012**
ATTENTION: In light of the storm, Fee for Service Medicaid will allow early fills for patients that have lost medications as a result of Hurricane Sandy. [Click here](#) for more info.

< 1 2 3 4 5 6 7 8 9 >
To view prior notices, click any number above

Featured Links

- New York State Medicaid Managed Care and Family Health Plus Pharmacy Information Center
- eMedNYHIPAASupport - HIPAA X12 5010 & NCPDP Version D.0
- Dispense Brand Drugs When Less Expensive
- Medicare Crossover
- Medicaid Update - New York State Department of Health
- Provider Self Help
- New York State Department of Health
- Provider Enrollment Forms
- Preferred Drug Program Website

This website is provided as a service for providers and the general public, as part of the offerings of the electronic Medicaid

Reinstatement Criteria

- ❑ A reinstatement application is made as an application for enrollment.
- ❑ Reinstatement may only be granted if it is reasonably certain that the violations will not be repeated.
- ❑ A person's reinstatement by Medicare does not mean the person is also automatically reinstated by Medicaid.

Complete the Application

- Answer the four “yes/no” questions on the application
- Prior conduct questionnaire
- Cover letter addressing the reasons for exclusion and give assurances

SECTION 6:

Respond to these questions on behalf of:

1. the Applicant
2. all individuals and entities identified in Section 1
3. any entity in which the Applicant has a 5% or more ownership

1. Have any of the individuals/entities (1, 2 and 3) been terminated, denied enrollment, suspended, restricted by Agreement or otherwise sanctioned by the Medicaid Program in New York or in any other State, Medicare, or any other governmental or private medical insurance program?

Yes No

2. Have any of the individuals/entities (1, 2 and 3) ever been convicted of a crime related to the furnishing of, or billing for, medical care or supplies or which is considered an offense involving theft or fraud or an offense against public administration or against public health and morals in any State?

Yes No

3. Have any of the individuals/entities (1, 2 and 3) ever had their business or professional license or certification, or the license of an entity in which they had an ownership interest over 5% ever been revoked, suspended, surrendered, or in any way restricted by probation or agreement by any licensing authority in any State?

Yes No

4. Is there currently pending any proceedings that could result in the above stated sanctions for the individuals/entities (1, 2 and 3)?

Yes No

NOTE: If you answered “Yes” to any of the questions above, you must complete and submit the “Prior Conduct Questionnaire” available at www.eMedNY.org.

Provide Assurances

Assurances may include:

- Courses or continuing education
- Substance abuse or other counseling
- Restitution
- Third-party monitoring of billing
- Compliance Plan – www.omig.ny.gov/data
- Any other assurances can be submitted

If Exclusion Was Based on a Conviction...

- ❑ OMIG may ask for information and documentation regarding the conviction.
- ❑ The applicant is responsible for obtaining the information.
- ❑ Applicant will be given at least 30 days to submit information.

If Exclusion Was Based on Medicare Exclusion...

- ❑ An individual excluded from Medicare may not be reinstated into the Medicaid program.
- ❑ Apply for Medicare reinstatement first:
www.oig.hhs.gov/fraud/exclusions/reinstatement.asp.
- ❑ Exception – Medicare exclusions based solely on Medicaid exclusion

Reinstatement Review

- ❑ All reviews done on a case-by-case basis
- ❑ Medicaid reinstatement decision is separate from Medicare, Office of Professional Discipline (OPD), or OPMC decision
- ❑ Law allows 90-day time frame for review

OMIG Considerations for Reinstatement

- Nature of violation
- Error or intentional
- Length of time since violation
- Patterns/repeated violations
- Voluntary corrective actions taken
- Acceptance of responsibility for actions
- Monitoring or supervision
- Not limited to these factors

Reinstatement Decision

- ❑ OMIG will inform applicant of approval or denial
- ❑ If reinstatement is approved, the individual or entity's provider number will be reactivated
- ❑ Reinstated parties removed from exclusion list
- ❑ Individual or entity may be reinstated with limitations



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
800 North Pearl Street
Albany, New York 12204

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

, 2012

Applicant Name
Address
City, State, Zip

Dear (Dr. or Mr. or Ms.):

Your request for reinstatement into the Medicaid Program has been reviewed by the Office of the Medicaid Inspector General (OMIG). Based on the findings of our review, this Agency has recommended to the New York State Department of Health that you be reinstated [18 NYCRR 515.10].

Your name should be removed from the New York State List of Excluded Providers by OMIG within the next week. You should receive separate correspondence from the Computer Science Corporation regarding your effective date of reinstatement. If you do not receive such correspondence within one week and need to verify your effective date of enrollment, you may contact the Department of Health, Office of Health Insurance Programs at 518 402-7032.

Sincerely,

John Sitterly, Supervisor
Enrollment and Reinstatement Unit
Division of Medicaid Investigations
Office of the Medicaid Inspector General

Reinstatement Case Study #1

A physician was excluded in 2002 after he was caught writing prescriptions for himself for controlled substances. He applied in 2014 for reinstatement.

- ❑ Submitted documentation of participation in Committee on Physicians Health of Medical Society of State of NY
- ❑ Submitted a recent evaluation from a drug rehabilitation counselor that showed he had become addicted to pain-killers in 2002 and is now drug-free
- ❑ OMIG approved MD for reinstatement

Reinstatement Case Study #2

A physician was excluded after a court conviction for billing Medicaid for more than \$150,000 in false claims over a two-year period. Applied for reinstatement two weeks after his license was reinstated.

- Now denies that he did anything wrong, even though he admitted to it in court
- Has since been indicted on a separate issue of submitting false billings to a health insurance company
- States he will never agree to having someone monitor his practice
- OMIG denied MD for reinstatement

Removal from Exclusion List

- ❑ Excluded parties that do not want to enroll in Medicaid may request only removal from exclusion list
- ❑ Removal without reinstatement does not allow party to directly bill Medicaid
- ❑ Removal allows applicant to provide Medicaid services to managed care recipients for which an employer can be reimbursed

Removal Request

- ❑ Request can be done as a letter to OMIG
- ❑ Include name, address, contact information, license number
- ❑ Letter must specifically state that the request is for removal from exclusion list
- ❑ Letter should explain reasons for exclusion and address the reason removal is requested

Submit the Request

Requests for removals can be sent to:

Enrollment Reinstatement

Division of Medicaid Investigations

800 North Pearl Street

Albany, NY 12204

Address the Issues

Applicant may submit:

- Courses or continuing education
- Evidence of substance abuse or other counseling
- Statement as to where applicant plans to work if removed from list
- Letters from employer or other supporting documents
- Any other assurances can be submitted

Removal Review

- ❑ All reviews done on a case-by-case basis
- ❑ Decision on removal is separate from Medicare, OPD, or OPMC decisions
- ❑ Law allows 90-day timeframe for review
- ❑ Because letter goes directly to OMIG, process may be quicker than reinstatement process

OMIG Considerations for Removal

- ❑ Error or intentional
- ❑ Length of time since violation
- ❑ Patterns/repeated violations
- ❑ How does removal affect Medicaid?
 - Plans to work with Medicaid recipients?
 - Does applicant need removal just to participate with third-party payers?
- ❑ Review not limited to these factors

Removal Decision

- ❑ OMIG will inform applicant of decision
- ❑ If removal is approved, will be removed from exclusion list
- ❑ Removal allows employer to bill for services provided by the applicant
- ❑ Can still request reinstatement



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
800 North Pearl Street
Albany, New York 12204

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

2012

Applicant Name
Address
City, State, Zip

Dear Dr. (or Mr. or Ms.):

Your request to be removed from the New York State Medicaid Excluded Provider List has been received. Based on the findings of our review, this Agency has determined that your name can be removed. Your name should be removed from the list within one week of the date of this letter.

Sincerely,

John Sitterly
Supervisor of Enrollment and Reinstatement
Division of Medicaid Investigations
Office of the Medicaid Inspector General

Removal Case Study #1

A nurse was excluded for taking drugs from a locked area in a nursing home for her own use. Applied two years later for removal from exclusion list.

- ❑ Right after exclusion, she got involved with Professional Assistance Program (PAP)
- ❑ Successfully completed rehabilitation program
- ❑ Positive evaluation submitted by her counselor
- ❑ Admitted she stole the medication/very sorry
- ❑ OMIG approved removal from exclusion list

Removal Case Study #2

An enrolled nurse was found to have submitted bills to Medicaid on 50 dates for home care services where the services were not provided. Records show she was out of the country or working elsewhere during the hours claimed. Applied for removal five weeks after exclusion.

- Applicant states she will not do it again
- No remorse but states that exclusion harms her financially
- Wants to continue to work doing home care in New York State
- OMIG denied request for removal from list

Denial of Reinstatement or Removal

- ❑ If a denial is based on prior conduct, applicant may not reapply for two years
- ❑ Denials may be appealed
- ❑ Denial letters give information regarding appeal rights

You have the right to appeal the denial by filing a written request for reconsideration. The request must contain all the information you wish to have considered, including any documentation or arguments which would disprove the reason for the denial, or disclose that the denial was based upon a mistake of fact. Appeals must be submitted in typewritten form with an original and one (1) copy, and be received by this Agency within forty-five (45) days of the date of this letter.

If you wish to appeal, please submit your request to my attention at:

Office of the Medicaid Inspector General
Division of Medicaid Investigations
800 North Pearl Street
Albany, NY 12204

The appeal will be reviewed by an Appeals Committee, whose members were not involved in the denial decision. The determination after reconsideration by the Appeals Committee may affirm, reverse, or modify the denial, and will be the final decision regarding your request. The denial cannot be reconsidered without a review of the appeal documents by the Appeals Committee.

Sincerely,



Date: _____

John Sitterly, Project Manager

Bureau of Investigations & Enforcement

Office of the Medicaid Inspector General

Appeals

- ❑ 45 days after denial to appeal
- ❑ Appeal reviewed by an appeals committee within 60 days
- ❑ Decision after appeal is the final decision of Medicaid

We Want to Hear from YOU

- ❑ Our new, improved Web site: www.omig.ny.gov
- ❑ Join our Listserv
- ❑ Follow us on Twitter: @NYSOMIG
- ❑ Dedicated e-mail: information@omig.ny.gov
- ❑ More than 4,000 final audit reports
- ❑ Audit protocols
- ❑ And much, much more!

How You Can Work With Us

Fraud Hotline



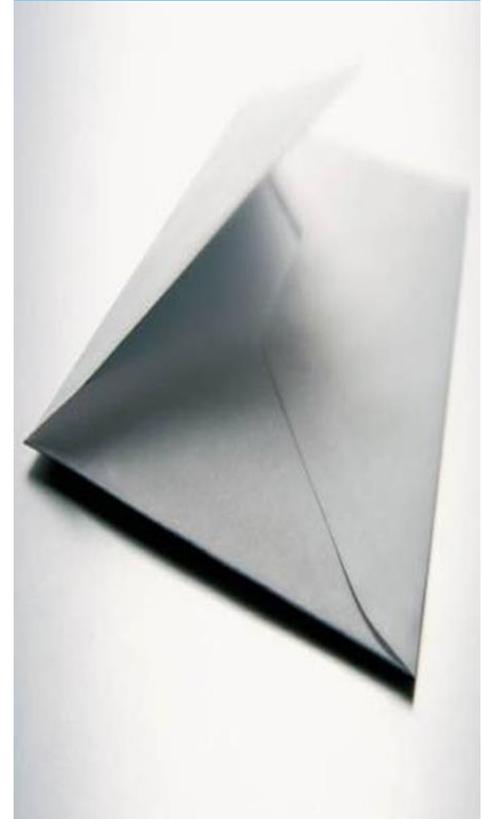
Fraud Hotline
1-877-87-FRAUD

E-mail



bmfa@
omig.ny.gov

U.S. Mail



800 N. Pearl Street,
Albany, NY 12204

Contact Information

Division of Medicaid Investigations

Exclusions/Terminations/Reinstatement

New York State Office of the Medicaid Inspector General

800 North Pearl Street

Albany, NY 12204

518-473-3782