The OMIG Exclusion and Reinstatement Process

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Moderator

ANDREW M. CUOMO
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JAMES C. COX
Medicaid Inspector General

About OMIG

- Established in 2006 as an independent program integrity entity within the Department of Health (DOH)
- Our mission: To enhance the integrity of the New York State Medicaid program by preventing and detecting fraudulent, abusive, and wasteful practices in the Medicaid program and recovering improperly expended Medicaid funds while promoting high-quality patient care

Today's Contributors

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- John Sitterly, Management Specialist 3
- Anita Dowse, Hospital Nursing Service Consultant

Mission Statement of the Administrative Remedies Unit (ARU)

To protect the Medicaid program and 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
- Limited Participation

Termination

18 NYCRR 504.7(d)

If an enrolled provider loses his or her license, the provider's enrollment in New York State Medicaid is terminated.

Provider is no longer enrolled in Medicaid.

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

- 18NYCRR 515.7

- **Indictment**
- **Conviction**

Immediate Sanctions

- 18 NYCRR 515.7

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

Immediate Sanctions

- 18 NYCRR 515.7

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

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

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Information Sources for Sanctions

- State Education Department
- Office of Professional Medical Conduct
- Health and Human Services
- Medicaid Fraud Control Unit
- Referrals from other states
- Office of Medicaid Inspector General
  - Prosecutor Web sites, other state agencies, and OMIG audits and investigations

Basis for Action

- Consent Order/Determination and Order
- Indictment/Conviction
- Federal Exclusion
- Affiliation

What Does It Mean?

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

Medicaid providers found to be in violation are placed on the OMIG list of restricted and excluded individuals and entities available on the OMIG Web site, which enables any organization access to review for disqualified providers.

http://omig.ny.gov/data

New York State | State Agencies | Search all of NY.gov

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Welcome

Hospital Guidance Now Available

1 2 3 4

Report Medicaid Fraud online or call 1-877-87 FRAUD (1-877-873-7283)

Restricted and Excluded Individuals or Entities

Terminated Individuals or Entities

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Restricted, Terminated or Excluded Individuals or Entities

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 excluded or terminated individuals or entities.

List Options:

1. List of Excluded or Restricted Individuals or Entities:
   - Search. A search for Excluded or Restricted Individuals or Entities with the ability to search for five names at once.
   - Download Exclusion List Options:
     1. Formatted list. A complete, formatted copy of the List of Excluded or Restricted Individuals or Entities.
     2. Tab delimited list.. A complete list of Excluded or Restricted Individuals or Entities suitable for importing into applications or desktop spreadsheets.
     3. Export to Excel.
        A complete list of Excluded or Restricted Individuals or Entities.
   - Short List. A list of individuals or entities who have been excluded or restricted in the last 30 days.
2. List of Terminated Providers
   - 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.

New York State | State Agencies | Search all of NY.

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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: Rosen

Name:

Name:

Name:

Name:

Search

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Print Results

Export to CSV

Search Again

Searched for: rosen
Data was last updated: December 11 2012 19:01:32.

Provider Name	Provider Type	County	City	State	Zip	Most Recent Action	Action Type	SSN/FEIN
ROSENDO							Exclusion - 18NYCRR515	Verify
ROSEN							Exclusion - 18NYCRR515	Verify
ROSEN							Exclusion - 18NYCRR515	Verify
ROSEN							Exclusion - 18NYCRR515	Verify
ROSENBAUM							Exclusion - 18NYCRR515	Verify
ROSENBLATT							Exclusion - 18NYCRR515	Verify
ROSENBLATT							Exclusion - 18NYCRR515	Verify
ROSENBLITT							Exclusion - 18NYCRR515	Verify
ROSENBLUM			BRONX	NY	10451		Exclusion - 18NYCRR515	Verify
ROSENFARB							Exclusion - 18NYCRR515	Verify
ROSENSTEIN							Exclusion - 18NYCRR515	Verify
ROSENSWEET			ENGLEWOOD				Exclusion - 18NYCRR515	Verify

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Search Again

Source data updated on: December 11 2012 19:01:32 EST
Search conducted December 12 2012 09:23:07 EST

Provider Name:	ROSEN
DOB:	
Provider Type:	
County:	
City:	
State:	
Zip:	
Most Recent Action:	
Action Type:	Exclusion - 18NYCRR515

Enter only numbers. Last 4 of SSN Format (2224), FEIN format (222446666)

Last 4 of SSN: 1234 Verify Last 4 of SSN

OR

FEIN: Verify FEIN

New York State | State Agencies | Search all of NY.gov

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Search Again

Source data updated on: December 11 2012 19:01:32 EST
Search conducted December 12 2012 09:54:06 EST

Provider Name:	ROSEN
DOB:	
Provider Type:	
County:	
City:	
State:	
Zip:	
Most Recent Action:	
Action Type:	Exclusion - 18NYCRR515

was entered. This record (last 4 of SSN) does match the last four numbers of the SSN in our database of Disqualified Persons and Entities.

Print Results

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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)

www.eMedNY.org - Windows Internet Explorer

https://www.emedny.org/

Favorites | Business News, Finance N... | Free Hotmail | Suggested Sites | Web Slice Gallery

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welcome to eMedNY

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

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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.

Login ePA
ePACES Info
Login eXc
eXchange Info
Enter Faci
Practitioner
eMedNY
LISTSER
Submitte
Dashboa
Dashboard Info
Test Enviro
MEIPASS
Informat
PAXpress
Informat

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

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, 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

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 after he showed up once to work while intoxicated. No patients were harmed. Applied two years later for reinstatement.

- Submitted documentation of participation in Committee on Physicians Health of Medical Society of State of New York
- Submitted a letter from alcohol rehabilitation counselor
- Attends AA regularly
- Has license back; no problems since exclusion
- OMIG approved MD for reinstatement

Reinstatement Case Study #2

A physician was excluded after billing Medicaid for $100,000 in false claims. License restored after six months. Applied for reinstatement two months later.

- Denies charges – was just a "misunderstanding"
- Has since been indicted for 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 that an employer can be reimbursed for

Removal 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 reasons for proposed removal

Submit the Request

Requests for removals can be sent to:

John Sitterly

Division of Medicaid Investigations

800 North Pearl Street

Albany, NY 12204

Address the Issues

Applicant may submit:

- Courses or continuing education
- 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 New York State Medicaid?
  - Involved with Medicaid recipients?
  - Does applicant need removal just to participate with third-party payers?
  - Working out of state?

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 applicant provides
- 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 PAP
- Successfully completed rehabilitation program
- Submitted current statement from her counselor
- Admitted she stole the medication/very sorry
- OMIG approved removal from exclusion list

Removal Case Study #2

A home care provider stole a Medicaid recipient's credit card and charged more than $2,000 on the card in various stores, forging the recipient's name. Applied for removal seven weeks after exclusion.

- Applicant's letter downplays incident
- States only that exclusion harms her financially
- Wants to continue to work in 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

Questions

- For questions regarding the exclusion process:

  Peter Zayicek- 518-474-9739

- For questions regarding the reinstatement process:

  Richard Preus – 518-408-0851

- For questions regarding the process for removal from the exclusion list:

  Anita Dowse – 518-408-0189