



MEDICAID PROGRAM INTEGRITY

Toolkits to Address Frequent Findings: 42 CFR 1002.3(b)(2) and (3)

Notifications to Inspector General

The following information addresses frequent findings from CMS's comprehensive program integrity reviews of State Medicaid Agencies' operations. This information helps address common issues for states when reporting adverse actions taken against providers to the Department of Health and Human Services, Office of the Inspector General (HHS-OIG).

42 CFR 1002.3 (b)(2) and (3) *Notification to Inspector General.*

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

- (2) The agency must also promptly notify the Inspector General of any action it takes to limit the ability of an individual or entity to participate in its program, regardless of what such an action is called. This includes, but is not limited to, suspension actions, settlement agreements and situations where an individual or entity voluntarily withdraws from the program to avoid a formal sanction.**

The regulation at 42 CFR 1002.3 is couched in fairly general terms, but based on HHS-OIG communications with CMS, and CMS guidance on the Affordable Care Act, the adverse actions to which it refers are those taken "for cause." These adverse actions would include denials of provider enrollment applications for reasons of fraud, integrity, or quality. Per 2011 CMS guidance on a somewhat analogous requirement,¹ adverse actions also include terminations taken for cause in which a provider's Medicaid billing privileges are revoked or they voluntarily end their participation in the program in order to avoid a formal sanction. Note that instances of disenrollment that are not for cause—such as where a state disenrolls a provider because of inactivity or license expiration due to a move to another state—are not reportable actions. Thus, notification to HHS-OIG must be made when adverse action is taken against a provider for cause to either deny or terminate enrollment or to limit participation of an enrolled provider.

Although managed care entities (MCEs) are not required by these federal regulations to report directly to HHS-OIG about adverse actions taken against network providers, CMS

¹ As defined in CMS's Informational Bulletin on section 6501 of the Affordable Care Act, which can be found at: <http://www.cms.gov/CMCSBulletins/downloads/6501-Term.pdf>.

considers these same requirements to be a program safeguard that would be considered prudent in managed care settings. Staying informed of these actions by MCEs is critical if the state is going to be able to provide HHS-OIG with an accurate overview of adverse actions cutting across both fee-for-service and alternate delivery systems. These requirements can be delegated to the MCEs through each state's contract with their respective MCEs.

Below are some **Common Issues** we have observed in our reviews, followed by **Solutions** that states can implement to ensure compliance with the regulation.

Common Issues:

- 1) The State Medicaid Agency (SMA) fails to notify its regional HHS-OIG office when the agency has denied an applicant entry into the Medicaid program for cause, as required by 42 CFR 1002.3(b)(2).
- 2) The SMA fails to notify its regional HHS-OIG office when the agency takes administrative action that removes a provider from the program for cause, in accordance with 42 CFR 1002.3(b)(3).
- 3) The SMA fails to require MCEs to report to the state when applications to join their provider network are denied for cause which includes reasons based on issues of fraud, integrity, or quality, or they terminate the enrollment of a provider for similar reasons.

Solutions:

- a) Establish a working relationship with your regional HHS-OIG contact. A list of regional offices is attached at the end of this document for your assistance.
- b) Develop and implement policies and procedures for notifying HHS-OIG whenever the SMA denies a provider's Medicaid application for cause. Such policies should include identifying what types of application denial cases are reportable, and who within the SMA would need to be notified of the denial in order to forward the information to HHS-OIG.

Examples of cases that would not require reporting are generally related to administrative issues, such as, but not limited to:

- Incomplete information on application forms.
 - Applicant failed to provide necessary documents or attachments in a timely manner.
 - The provider's enrollment is denied due to an enrollment moratorium applicable to that provider type.
- c) Educate provider enrollment staff on identifying and reporting those providers who are denied enrollment into the Medicaid program for reportable reasons.

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- d) Develop and implement policies and procedures for notifying HHS-OIG whenever the SMA takes a reportable adverse action against an enrolled provider. Such policies should include examples of what types of actions must be reported, and what party within the SMA will be responsible for notifying HHS-OIG.
- e) Track the number of applications that are denied for cause and maintain documentation of all notifications to HHS-OIG for denials and other adverse actions.
- f) Ensure that your contracts with MCEs contain language requiring MCEs to report to the SMA whenever they deny a provider enrollment in their network or take any adverse action against a provider due to issues of fraud, integrity, or quality of care.

We hope this information on reporting adverse actions to HHS-OIG has been helpful to states. Please direct any suggestions or feedback to:

[Medicaid Integrity Program@cms.hhs.gov](mailto:Medicaid_Integrity_Program@cms.hhs.gov).

US Department of Health and Human Service Exclusion Program

Points of Contact²

Main Office

**HHS/OIG/OI
Exclusions Branch**
PO Box 23871
Washington, DC 20026

Email: sanction@oig.hhs.gov

Responsible for: Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Kentucky, Louisiana, Michigan, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Utah, State of Washington, Wyoming, American Samoa, Guam, North Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

Field Offices

- **DHHS/OIG/OI- Exclusion Staff, Boston Regional Office**, JFK Federal Building, Room 2475, Boston, MA 02203
Telephone: 617-565-2664
Responsible for: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont
- **DHHS/OIG/OI-Exclusion Staff, New York Regional Office**, 26 Federal Plaza, Room 13-124, New York, NY 10278
Telephone: 212-264-1691
Responsible for: New Jersey and New York
- **DHHS/OIG/OI-Exclusion Staff, Philadelphia Regional Office**, 150 South Independence Mall West, Suite 329, Philadelphia, PA 19106
Telephone: 215-861-4586
Responsible for: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia
- **DHHS/OIG/OI-Exclusion Staff, Atlanta Regional Office**, 61 Forsyth Street, Suite 5T18, Atlanta, GA 30303
Telephone: 404-562-7603
Responsible for: Georgia, Mississippi, North Carolina, and South Carolina
- **DHHS/OIG/OI-Exclusion Staff, Chicago Regional Office**, 233 North Michigan Ave, Suite 1330, Chicago, IL 60601

² This list is current as of 12-8-14.

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Telephone: 312-353-2740

Responsible for: Illinois, Indiana, Minnesota, Ohio, and Wisconsin

- **DHHS/OIG/OI-Exclusion Staff, Dallas Regional Office**, 1100 Commerce St, Room 629, Dallas, TX 75242
Telephone: 214-767-8406
Responsible for: Texas
- **DHHS/OIG/OI-Exclusion Staff, San Francisco Regional Office**, 1855 Gateway Blvd, Suite 585, Concord, CA 94520
Telephone: 925-356-7558
Responsible for: California (North)
- **DHHS/OIG/OI-Exclusion Staff, Los Angeles Regional Office**, 600 West Santa Ana Blvd, Suite 1100, Santa Ana, CA 92701
Telephone: 714-246-8302
Responsible for: California (South)