

The Effect of Criminal Convictions on Medicaid Enrollment Snapshot

Providers that want to enroll in Medicaid must disclose certain convictions of persons who have ownership or control interests in or who are managers or agents of the provider business.[1] This is because individuals or entities that have been convicted of certain offenses, or that have relationships with persons who have been convicted of those offenses, may be prohibited from enrolling, terminated, or temporarily excluded from participation.

Denial or Termination of Enrollment

Except under certain conditions, the State Medicaid agency (SMA) is required to deny or terminate the enrollment of any provider where:

[A]ny person with a 5 percent or greater direct or indirect ownership interest in the provider has been convicted of a criminal offense related to that person’s involvement with the Medicare, Medicaid, or [T]itle XXI program in the last 10 years.

The SMA can make an exception if it “determines that denial or termination of enrollment is not in the best interests of the Medicaid program and the [SMA] documents that determination in writing.”[2]

For providers in which the convicted person’s ownership interest is less than 5 percent, the SMA has discretion.[3]

SMA’s must report disclosures regarding convictions, and any actions taken by the SMA on the provider’s application for enrollment, to the Department of Health and Human Services, Office of Inspector General (HHS-OIG).[4]

Exclusion by HHS-OIG

Even if a conviction does not lead to denial of enrollment or termination, HHS-OIG still may temporarily prevent participation. HHS-OIG is either required or authorized to exclude the convicted person or entity from participation in Medicaid, depending on the conviction. “Exclusion means that items and services furnished, ordered or prescribed by a specified individual or entity will not be reimbursed under Medicare, Medicaid and all other Federal health care programs until the individual or entity is reinstated by the OIG.”[5] Convictions requiring exclusion include those related to Medicare and State health care programs, other government health care programs, patient abuse or neglect, and controlled substances.[6] HHS-OIG has discretion to exclude for other convictions, including misdemeanors related to health care financial misconduct and fraud convictions in connection with a program other than a health care program.[7]



For More Information

More recent information on enrollment, including information about a recent report from HHS-OIG, will be available in the forthcoming “Medicaid Provider Enrollment” Toolkit that will be posted to the Medicaid Program Integrity Education page at <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/edmic-landing.html> on the CMS website. The electronic version of this and other E-Bulletins and information on other program integrity topics can also be found there.

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References

- 1 Disclosure by Providers: Information on Persons Convicted of Crimes. 42 C.F.R. § 455.106. Retrieved June 22, 2016, from http://www.ecfr.gov/cgi-bin/text-idx?SID=8afebfaeb2a8238cba36c455e615e373&mc=true&node=se42.4.455_1106&rgn=div8
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- 3 42 C.F.R. § 455.106(c)(1). Retrieved July 1, 2016, from http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=a2b3d3ea36b6b4770f801c47b1d9b34b&ty=HTML&h=L&mc=true&r=SECTION&n=se42.4.455_1106
- 4 42 C.F.R. § 455.106(b). Retrieved June 2, 2016, from http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=a2b3d3ea36b6b4770f801c47b1d9b34b&ty=HTML&h=L&mc=true&r=SECTION&n=se42.4.455_1106
- 5 Definitions. 42 C.F.R. § 1001.2. Retrieved July 5, 2016, from <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=a1546851923b2398f23af41516520843&ty=HTML&h=L&mc=true&r=PART&n=pt42.5.1001>
- 6 Basis for Liability. 42 C.F.R. § 1001.10. Retrieved July 5, 2016, from <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=a1546851923b2398f23af41516520843&ty=HTML&h=L&mc=true&r=PART&n=pt42.5.1001>
- 7 42 C.F.R. § 1001.201(a). Retrieved July 5, 2016, from <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=a1546851923b2398f23af41516520843&ty=HTML&h=L&mc=true&r=PART&n=pt42.5.1001>

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