

# Sanctions for Provider Misconduct Snapshot

To protect Medicaid from providers that are likely to engage in fraud, waste, or abuse, Federal regulations allow State Medicaid agencies (SMAs) and the Department of Health and Human Services, Office of Inspector General (HHS-OIG) to impose sanctions on providers that have engaged in misconduct or that have relationships with persons or entities that have engaged in misconduct.

## Criminal Convictions

SMAs generally must deny or terminate enrollment of providers when a person with an ownership interest of 5 percent or more has been convicted of an offense related to Medicare, Medicaid, or the Title XXI program in the last 10 years. There may be an exception when such action would not be in the best interests of Medicaid.[1] SMAs may, but are not required to, deny or terminate enrollment of providers that have, or have relationships with persons that have, a conviction related to Medicare, Medicaid, or the Title XX Services Program, regardless of when the conviction occurred.[2] SMAs are required to report to HHS-OIG all information disclosed regarding convictions and any action the SMA takes as a result.[3]

HHS-OIG is required to exclude providers from participation in Medicaid for convictions related to Medicare and State health care programs, other government health care programs, patient abuse or neglect, and controlled substances.[4] “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] HHS-OIG has discretion whether to exclude for other convictions. SMAs have discretion to deny or terminate a provider that has been convicted of crimes for which HHS-OIG could have imposed exclusion.[6]

## Misconduct

HHS-OIG can exclude providers for a whole range of misconduct, including failure to disclose required information,[7] license revocation or suspension, default on educational loans, and relationships with sanctioned persons or entities.[8, 9] HHS-OIG can also impose civil money penalties against providers for program-related misconduct, including overbilling and submitting false claims or claims for medically unnecessary items or services.[10]



## 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.

Follow us on Twitter  [#MedicaidIntegrity](https://twitter.com/MedicaidIntegrity)

## References

- 1 42 C.F.R. § 455.416(b). Retrieved June 22, 2016, from [http://www.ecfr.gov/cgi-bin/text-idx?SID=2c6eac703f81a30dda3267fc91c242d6&mc=true&node=se42.4.455\\_1416&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=2c6eac703f81a30dda3267fc91c242d6&mc=true&node=se42.4.455_1416&rgn=div8)
- 2 42 C.F.R. § 455.106(c)(1). Retrieved July 1, 2016, from [http://www.ecfr.gov/cgi-bin/text-idx?SID=2c6eac703f81a30dda3267fc91c242d6&mc=true&node=se42.4.455\\_1106&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=2c6eac703f81a30dda3267fc91c242d6&mc=true&node=se42.4.455_1106&rgn=div8)
- 3 42 C.F.R. § 455.106(b). Retrieved June 2, 2016, from [http://www.ecfr.gov/cgi-bin/text-idx?SID=2c6eac703f81a30dda3267fc91c242d6&mc=true&node=se42.4.455\\_1106&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=2c6eac703f81a30dda3267fc91c242d6&mc=true&node=se42.4.455_1106&rgn=div8)
- 4 Basis for Liability. 42 C.F.R. § 1001.101. Retrieved July 5, 2016, from [http://www.ecfr.gov/cgi-bin/text-idx?SID=c0cf0c10c172eea1f2f50f041a75c94c&mc=true&node=se42.5.1001\\_1101&rgn=div81](http://www.ecfr.gov/cgi-bin/text-idx?SID=c0cf0c10c172eea1f2f50f041a75c94c&mc=true&node=se42.5.1001_1101&rgn=div81)
- 5 Definitions. 42 C.F.R. § 1001.2. Retrieved July 5, 2016, from [http://www.ecfr.gov/cgi-bin/text-idx?SID=27855bce5e08e055f3f92f7bec207e8a&mc=true&node=se42.5.1001\\_12&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=27855bce5e08e055f3f92f7bec207e8a&mc=true&node=se42.5.1001_12&rgn=div8)
- 6 42 C.F.R. § 1002.2(a). Retrieved July 6, 2016, from [http://www.ecfr.gov/cgi-bin/text-idx?SID=9f0e236c2baa051c21026ede21388568&mc=true&node=se42.5.1002\\_12&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=9f0e236c2baa051c21026ede21388568&mc=true&node=se42.5.1002_12&rgn=div8)
- 7 Failure to Disclose Certain Information. 42 C.F.R. § 1001.1101. Retrieved July 5, 2016, from [http://www.ecfr.gov/cgi-bin/text-idx?SID=7114a656987351cce3045c13239e92a4&mc=true&node=se42.5.1001\\_11101&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=7114a656987351cce3045c13239e92a4&mc=true&node=se42.5.1001_11101&rgn=div8)
- 8 Social Security Act § 1128. Exclusion of Certain Individuals and Entities from Participation in Medicare and State Health Care Programs. Retrieved July 7, 2016, from [https://www.ssa.gov/OP\\_Home/ssact/title11/1128.htm](https://www.ssa.gov/OP_Home/ssact/title11/1128.htm)
- 9 Permissive Exclusions. 42 C.F.R. Part 1001 Subpart C. Retrieved July 6, 2016, from <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=0255709d13c96c000161b0038d781491&mc=true&n=pt42.5.1001&r=PART&ty=HTML#sp42.5.1001.c>
- 10 42 C.F.R. § 1003.102(a). Retrieved July 5, 2016, from [http://www.ecfr.gov/cgi-bin/text-idx?SID=7114a656987351cce3045c13239e92a4&mc=true&node=se42.5.1003\\_1102&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=7114a656987351cce3045c13239e92a4&mc=true&node=se42.5.1003_1102&rgn=div8)

## Disclaimer

This E-Bulletin was current at the time it was published or uploaded onto the web. Medicaid and Medicare policies change frequently so links to the source documents have been provided within the document for your reference.

This E-Bulletin was prepared as a service to the public and is not intended to grant rights or impose obligations. This E-Bulletin may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. Use of this material is voluntary. Inclusion of a link does not constitute CMS endorsement of the material. We encourage readers to review the specific statutes, regulations, and other interpretive materials for a full and accurate statement of their contents.

August 2016

