

South Carolina
DEPARTMENT OF HEALTH AND HUMAN SERVICES
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All Medicaid Providers

MEDICAID BULLETIN

TO: Medicaid Providers

SUBJECT: Screening for Excluded Providers

The Centers for Medicare and Medicaid Services (CMS), in a State Medicaid Directors Letter dated January 16, 2009 (SMDL #09-001), informed States of their obligation to direct providers to screen their own employees and contractors for excluded persons. Under federal law, health care programs such as Medicaid, the State Children's Health Insurance Program (SCHIP) and Medicare cannot pay for services or items furnished, ordered, or prescribed by an excluded health care provider. The South Carolina Department of Health and Human Services (SCDHHS) has several processes in place to ensure that it identifies excluded providers and also denies their payment. This bulletin will help clarify the SCDHHS process and provide guidance to Medicaid providers regarding their own compliance with exclusion rules.

What is Exclusion?

"Exclusion" means that a health care provider – an individual practitioner, group, facility, organization, institution, business, or other type of entity – cannot receive Medicaid payment for any healthcare services. Exclusions from Medicaid, as well as the SCHIP Program, may be the result of:

- Conviction of a criminal offense related to delivery of health care services
- Conviction of health care fraud under either Federal or State laws.
- Conviction of patient neglect or abuse in connection with delivery of health care.
- Excessive claims or furnishing unnecessary or substandard items and services.
- Failure to comply with financial responsibilities and obligations.
- Adverse action by a licensing board.

Exclusions can be initiated by either federal authorities such as the US Department of Health and Human Services, Office of Inspector General (HHS-OIG) or by the State Medicaid agency. HHS-OIG exclusions are national – for example, an excluded Michigan provider could not work for the South Carolina Medicaid program. All Medicaid providers excluded by SCDHHS are reported to the HHS-OIG.

Depending on the nature of the offense, the HHS-OIG either must exclude or has discretion to exclude the provider from all federally funded health programs, including Medicare and other states' Medicaid programs. Providers convicted of Medicaid fraud must be excluded according to federal regulations. The HHS-OIG maintains a website which lists all excluded providers.

An excluded individual may be a licensed medical professional, such as a physician, dentist, or nurse, but exclusion is not limited to these types of individuals. The ban on Medicaid funding can extend to any individual or entity providing services that are related to and reimbursed, directly or indirectly, by a Medicaid program. This includes individuals who do not have an individual Medicaid provider ID or National Provider Identification (NPI) number, and who may not provide direct patient care.

In addition, the HHS-OIG and/or SCDHHS may exclude an entity, including managed care organizations, if someone who is an owner, officer, director, partner, agent, or managing employee of the entity has been excluded. For example, if the owner of a nursing home was excluded, the nursing home itself would be excluded, and the care provided to those patients could no longer be reimbursed with Medicaid funds.

Who Is Responsible for Exclusion Screening?

The State Medicaid Director's Letter states that State Medicaid Agencies "should require providers to search the HHS-OIG website monthly to capture exclusions and reinstatements that have occurred since the last search." While this requirement is not a specific state regulation, all South Carolina providers, as a condition of enrollment in the Medicaid program, agree to comply with all applicable state and federal Medicaid requirements. This includes not filing claims for any services provided, directly or indirectly, by an excluded individual. Failing to comply with state and federal requirements regarding excluded individuals means that SCDHHS can sanction the provider. Providers must conduct their own risk assessment in this area and determine what actions they need to take to ensure 100% compliance with these requirements.

All South Carolina hospitals, pharmacies, home health agencies, medical or dental practices, nursing facilities, State agencies, managed care organizations, or any other entities or individuals that accept Medicaid funding or that are involved in administering the Medicaid program, should screen all employees and contractors to determine whether any of them have been excluded. Any individual or entity which employs or contracts with an excluded provider cannot claim Medicaid reimbursement for any items or services furnished, authorized, or prescribed by the excluded provider. This prohibition applies even when the Medicaid payment itself is made to another provider that is not excluded; for example, a pharmacy, which fills a prescription written by an excluded doctor for a Medicaid beneficiary, cannot claim Medicaid reimbursement for that prescription.

Providers are also obligated to report to SCDHHS immediately if they discover that an excluded individual is an employee, contractor, supplier, agent, or is involved in providing services that are related to and reimbursed, directly or indirectly, by the Medicaid program. Failure to do so would constitute non-compliance with program regulations and may result in further sanctions.

Reinstatement After Exclusion

Most exclusions run from three to five years, but exclusion can be permanent. After a term of exclusion is over, the provider may apply first to the HHS-OIG, if federally excluded, and then to SCDHHS for reinstatement. If approved, the HHS-OIG will give

written notice to the excluded party and to all others who were originally informed of the exclusion. However, re-enrollment in South Carolina Medicaid by formerly excluded providers is not automatic. Federal regulations give states the right to review requests for reinstatement and to grant or deny the requests. Before a request for re-enrollment in SC Medicaid will be considered, the provider must have an active, valid license to practice and must not be excluded from Medicaid by the HHS-OIG. It is the provider's responsibility to satisfy these requirements. All requests for re-enrollment in Medicaid will be considered by SCDHHS on an individual basis and on their own merit.

SCDHHS Policies and Procedures Regarding Exclusion

When a provider is excluded, SCDHHS sends copies of exclusion letters by certified US Mail to the provider being excluded, his or her last place of employment (if known), HHS-OIG, the Department of Health and Environmental Control, the SC Department of Labor, Licensing and Regulation, Palmetto GBA (the Medicare contractor in South Carolina) and other agencies or organizations as appropriate. If the excluded provider has an NPI and/or a Medicaid ID number, these numbers are blocked in the Medicaid Management Information System. Any claim with this provider's ID number on it will reject and will not be paid. If SCDHHS discovers an excluded person employed by a Medicaid provider or in a management or ownership position, both the Medicaid provider and the HHS-OIG are informed.

Any Medicaid funds used to pay for the services of the excluded person or entity, or that can be tied, either directly or indirectly, to the excluded person or entity will be recouped. SCDHHS will also conduct a preliminary investigation and refer to the Medicaid Fraud Control Unit if appropriate. If the Medicaid provider does not show proof that the excluded person is no longer connected to them, then SCDHHS can move to exclude that provider as well.

SCDHHS has also implemented several new practices in order to comply with CMS provisions regarding provider exclusions. These include:

- A list of all excluded South Carolina providers is now on the SCDHHS website and is updated monthly. In order to make it easier for providers to determine who has been added to the list each month, new additions will be highlighted. However, providers **should also always check the HHS-OIG exclusion website** to confirm whether a provider is excluded. Instructions on using the HHS-OIG List of Excluded Individuals and Entities (LEIE) are included at the end of this bulletin.
- The NPIs of excluded doctors, dentists, and other providers with prescriptive authority are now flagged in the pharmacy point-of-sale system. Pharmacists will subsequently be unable to bill Medicaid for a prescription written by an excluded provider.
- SCDHHS is revising the CMS Form 1513, Disclosure of Ownership and Control Interest, that providers are required to submit upon enrollment and when contracts are renewed. Providing this information will now be required of all Medicaid providers except individual practitioners. SCDHHS will use the form to obtain information on owners and managing employees of Medicaid providers, and will check these individuals against the HHS-OIG exclusion database. The form is being revised to make it easier to complete.

HHS-OIG Exclusion Website

The HHS-OIG maintains the LEIE (List of Excluded Individuals and Entities), a database accessible to the general public that provides information about parties excluded from Medicare, Medicaid, and all other Federal health care programs. The LEIE website is located at <http://www.oig.hhs.gov/fraud/exclusion.asp> and is available in two formats. The on-line search engine identifies currently excluded individuals or entities. When a match is identified, it is possible for the searcher to verify the accuracy of the match by entering the Social Security Number (SSN) or Employer Identification Number (EIN). The downloadable version of the database may be compared against an existing database maintained by the provider; however, the downloadable version does not contain SSNs or EINs.

The SCDHHS website can be located at www.scdhhs.gov, and the link to the list of excluded South Carolina providers is under the "Provider" box that appears on the home page. The SCDHHS list includes only South Carolina Medicaid providers (or those with a South Carolina connection) and does include an NPI for any provider that has one.

If you have any questions regarding this bulletin, please contact Sherry Ward, RN, Director, Division of Program Integrity at (803) 898-2678.

/S/
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Director

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