



Understanding Exclusions Checks

What is an Exclusion?

An exclusion is an individual or vendor who is excluded from participation in Federal Healthcare Programs such as Medicare and/or Medicaid. If an individual or vendor is on the Federal exclusion list, organizations that receive any Federal funds cannot receive any funds for the services provided while excluded. If an organization contracts with or employs an excluded vendor or individual, it risks receiving a penalty of up to \$20,000 for each billable service conducted after February 9, 2018, and up to \$10,000 for any billed services before that date. Those fines can be costly for any organization employing or contracting with an excluded individual or vendor.

In October 2024, one organization agreed to pay \$60,000 for employing an excluded individual and another agreed to pay \$20,000. Those are just two examples. Visit the Office of Inspector General's (OIG) [Enforcement Actions](#) to read more about those examples and see many others.

Types of Exclusions

There are two types of exclusions – mandatory and permissive exclusions. Mandatory exclusions are imposed for a minimum of 5 years but could be indefinite.



A mandatory exclusion requires that an individual or business be excluded from all Federal Healthcare programs. A permissive exclusion can be for up to 5 years. Whether they are excluded from Federal Healthcare programs is optional.

Reasons for mandatory exclusions include:

- Medicare or Medicaid fraud
- Patient abuse or neglect
- Felony convictions for other healthcare-related fraud, theft, or other financial misconduct
- Felony convictions relating to unlawful manufacture, distribution, prescription, or dispensing of controlled substances

Reasons for permissive exclusions include:

- Misdemeanor convictions related to healthcare fraud other than Medicare or a State health program
- Fraud in a program funded by and Federal, State or local government agency
- Misdemeanor convictions relating to the unlawful manufacture, distribution, prescription, or dispensing of controlled substance.
- Suspension, revocation, or surrender of a license to provide health care for reasons bearing on professional competence or performance or financial integrity
- Submission of false or fraudulent claims to a Federal healthcare program
- Engaging in unlawful kickback arrangements
- Defaulting on health education loans or scholarship obligations
- Controlling a sanctioned entity as an owner, officer, or managing employee

State Exclusion Lists

In addition to the Federal exclusion list, states also have separate exclusion lists. By running exclusions against the State Medicaid lists, you are ensuring that you are not employing an individual or partnering with vendors or businesses that have been excluded within your state or surrounding states.

MEDICAID

OIG recommendations

It is recommended by the General Compliance Program Guidance (GCPG) that organizations conduct exclusions monthly. This recommendation includes running vendors and staff against the state State lists in addition to the Federal lists.

As of December 10, 2024, the List of Excluded Individuals/Entities (LEIE) contained 81,201 entries. That is over 550 more entries since October 2024! With the number of individuals and entities on the LEIE list, why risk employing or contracting with an excluded individual or vendor?

An exclusion does not immediately appear on a list. It can take an average of 173 days for an exclusion to appear on the Office of Inspector General (OIG) LEIE and up to two years for an exclusion to appear on a state State list. What this means is you could hire an employee or contract with a vendor that has not been added to an exclusion list yet. This supports the need for monthly exclusions.



Ask Yourself

Is your organization conducting exclusion checks? We would hope that your answer is “yes” though it may not always be the case.

It is possible that the answer be “I’m not sure.” If this is the case, we recommend having this conversation with the necessary individuals on your team. Depending on the conversation, you may identify a potential gap in your organization’s compliance program. Or maybe you will find that your team has an exclusion check process in place and is fully compliant in that regard.

If your answer is “no” and your organization is not conducting exclusion checks, you should be. As mentioned, the GCPG recommends that you run exclusions monthly. By doing this, you are mitigating the risk of employing or contracting with a vendor that is excluded. Is it worth the risk?

It's even possible that your response to the initial question is “well, we have an HRIS/procurement vendor that does that for us.” That is great – but do you know the sources they are screening against? Many of those systems are only running against a limited assortment of Federal lists. It is recommended in the GCPG that organizations run their individuals and vendors against both Federal and State lists. Additionally, do you know the frequency the system or vendor is screening your employees and vendors? It is recommended that exclusion checks are run monthly.

Sources

Background information. Background Information | Exclusions | Office of Inspector General | U.S. Department of Health and Human Services. (n.d.).

<https://oig.hhs.gov/exclusions/background.asp>

Exclusions FAQs. Office of Inspector General | Government Oversight | U.S. Department of Health and Human Services. (2024, July 1). <https://oig.hhs.gov/faqs/exclusions-faq/>

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ProviderTrust. (2024, April 24). 7 things You Might Not Know About OIG Exclusions.

<https://www.providertrust.com/blog/seven-things-oig-exclusions/>



About LW Consulting, Inc.

For nearly two decades, LWCI has delivered operational and compliance improvements to acute, post-acute, and sub-acute providers and government entities involved in healthcare. This expertise is also applied to compliance actions and legal proceedings, with a specialty in serving as an independent review organization (IRO).

LW Consulting, Inc. (LWCI) offers an exclusions software with competitive pricing. LWEnSCheck® Exclusions Software is available as a monthly licensing subscription for organizations to complete their monthly exclusions and allows your team to download monthly reports for compliance retention. If your team has been struggling to keep up with monthly exclusions, outsource to our exclusion consultants.

