US Department of Health and Human Services
Office of Inspector General

Exclusion Authorities

Footnotes relate to effective dates.

Social Security Act	42 USC §	Amendment
1128[*]	1320a-7	Scope of exclusions imposed by the OIG expanded from Medicare State health care programs to all Federal health care programs, as defined in section 1128B(f)(1).

Mandatory Exclusions

Social Security Act	42 USC §	Amendment
1128(a)(1)	1320a-7(a)(1)	Conviction of program-related crimes. Minimum Period: 5 years
1128(a)(2)	1320a-7(a)(2)	Conviction relating to patient abuse or neglect. Minimum Period: 5 years
1128(a)(3)[†]	1320a-7(a)(3)	Felony conviction relating to health care fraud. Minimum Period: 5 years
1128(a)(4)[†]	1320a-7(a)(4)	Felony conviction relating to controlled substance. Minimum Period: 5 years
1128(c)(3)[‡](G)(i)[*]	1320a-7(c)(3)(G)(i)	Conviction of two mandatory exclusion offenses. Minimum Period: 10 years
1128(c)(3)[‡](G)(ii)[*]	1320a-7(c)(3)(G)(ii)	Conviction on 3 or more occasions of mandatory exclusion offenses. Permanent Exclusion
1892	1395ccc	Failure to enter an agreement to repay Health Education Assistance Loans (HEAL). Minimum Period: Until entire past due obligation is repaid.

Permissive Exclusions

Social Security Act	42 USC §	Amendment
1. 1128(b)(1)(A)[*]	1320a-7(b)(1)(A)	Misdemeanor conviction relating to health care fraud. Minimum Period: 3 years
2. 1128(b)(1)(B)[†]	1320a-7(b)(1)(B)	Conviction relating to fraud in non- health care programs. Minimum Period: 3

3. 1128(b)(2)	1320a-7(b)(2)	Conviction relating to obstruction of an investigation. Minimum Period: 3 years
4. 1128(b)(3)[†]	1320a-7(b)(3)	Misdemeanor conviction relating to controlled substance. Minimum Period: 3 years
5. 1128(b)(4)	1320a-7(b)(4)	License revocation or suspension. Minimum Period: No less than the period imposed by the state licensing authority.
6. 1128(b)(5)	1320a-7(b)(5)	Exclusion or suspension under federal or state health care program. Minimum Period: No less than the period imposed by federal or state health care program.
7. 1128(b)(6)	1320a-7(b)(6)	Claims for. excessive charges, unnecessary services or services which fail to meet professionally recognized standards of health care, or failure of an HMO to furnish medically necessary services. Minimum Period: 1 year
8. 1128(b)(7)	1320a-7(b)(7)	Fraud, kickbacks, and other prohibited activities. Minimum Period: None
9. 1128(b)(8)	1320a-7(b)(8)	Entities controlled by a sanctioned individual. Minimum Period: Same as length of individual's exclusion.
10. 1128(b)(8)(A)[#]	1320a-7(b)(8)(A)	Entities controlled by a family or household member of an excluded individual and where there has been a transfer of ownership/ control. Minimum Period: Same as length of individual's exclusion.
11. 1128(b)(9), (10), and (11)	1320a-7(b)(9), (10), and (11)	Failure to disclose required information, supply requested information on subcontractors and suppliers; or supply payment information. Minimum Period: None
12. 1128(b)(12)	1320a-7(b)(12)	Failure to grant immediate access. Minimum Period: None
13. 1128(b)(13)	1320a-7(b)(13)	Failure to take corrective action. Minimum Period: None
14. 1128(b)(14)	1320a-7(b)(14)	Default on health education loan or scholarship obligations. Minimum Period: Until default has been cured or obligations have been resolved to Public Health Service's (PHS) satisfaction.
15. 1128(b)(15)[‡]	1320a-7(b)(15)	Individuals controlling a sanctioned entity. Minimum Period: Same period as entity.
16. 1156[‡]	1320c-5	Failure to meet statutory obligations of practitioners and providers to provide' medically necessary services meeting professionally recognized standards of health care (Peer Review Organization (PRO) findings). Minimum Period: 1 year

Note: except those imposed under section 1128(b)(7) [42 USC 1320a-7b(b)(7)], and those imposed on rural physicians under section 1156 [42 USC 1320C-5], all exclusions are effective prior to a hearing.

Footnotes

Health Insurance Portability and Accountability Act (HIPAA); Public Law 104-191
Enacted August 21, 1996.

†. The effective date of the new provisions sections 1128(a)(3) and 1128(a)(4), and the amended provisions section 1128(b)(1)(A), (B), and section 1128(b)(3) is August 22, 1996. These provisions apply to offenses occurring on or after that date.

‡. The effective date for the amendments to sections 1128(b)(15), 1128(c)(3), and 1156 is January 1, 1997.

Balanced Budget Act (BBA); Public Law 105-33:
Enacted August 5, 1997.

*. The effective date for the amendment to section 1128, and the new provisions section 1128(c)(3)(G)(i) and (ii) is August 5. 1997.

#. The effective date for the amendment to section 1128(b)(8)(A) is September 19, 1997 (45 days after BBA's enactment).

Note: check HIPAA and BBA for effective dates concerning other new amended sections affecting exclusions.