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Client Alert: How Important is Exclusion Screening for Health Care Providers?

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Under its exclusion authority, the Department of Health and Human Services Office of Inspector General (OIG) has the power to exclude certain individuals and entities from receiving compensation from federally funded health care programs (including Medicare Advantage Organizations (MAOs) and Medicare Prescription Drug Plans (PDPs)). Employers who hire an individual on the List of Excluded Individuals/Entities (LEIE) are subject to penalties. OIG recently reported a number of settlements with health care entities that the OIG alleged failed to screen employees for exclusion from government health care programs. Below is a list of some of the settlements related to claims that employees provided services to a government program while excluded:

- An Arizona medical group agreed to pay \$338,388.58 for employing a medical assistant and clinical supervisor who had been excluded;
- A New York entity agreed to pay \$188,000 for employing an excluded direct support specialist;
- An Orlando, Florida physician practice agreed to pay \$67,000 to resolve an allegation that it employed an ultrasound tech who had been excluded;
- An Illinois entity agreed to settle a claim that it employed an excluded registered nurse for the sum of \$213,000;
- A New York home attendant program resolved an allegation for \$866,000 that a personal assistant was employed who was excluded by a New York government program;
- A Minnesota entity agreed to pay OIG \$64,000 to resolve a claim that it employed an excluded certified nursing assistant;
- An Ohio home health entity settled a claim that it employed an excluded home health aid for \$77,000; and
- Another Minnesota entity resolved an allegation that it employed an excluded direct support professional for \$40,000.

While these entities settled these matters, and there is generally no admission in these settlements, these agreements do evidence a very significant risk for not screening employees and others for exclusion from federal and state government programs.

Have you met with your Human Resource and Compliance Officer to ensure that you are properly screening

employees, independent contractors, volunteers, and vendors? If not, as the range of penalties above indicates (\$40,000 to \$866,000), you may be playing regulatory roulette. Make sure that your entity is not in danger.