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Providence Settles Cases Over Exclusions for $536K; Screening Metrics May Be Helpful

By Nina Youngstrom

In a reminder that there's a price to pay when excluded people are on your payroll, Providence Health System-Southern California and an affiliated entity agreed to settle three civil monetary penalty cases for a total of $536,148. The settlements with the HHS Office of Inspector General (OIG) stem from self-disclosures in connection with the employment of three excluded people in different facilities.

The largest dollar settlement, which is for $362,342, centered on Jennifer Lynn Watson Jenkins, who was employed by Providence Health System-Southern California from Jan. 4, 2016, to Sept. 3, 2019. OIG's List of Excluded Individuals and Entities (LEIE) has a Jennifer Lynn Watson in Modesto, California, as a pharmacy technician who is excluded from Medicare because she lost her license. However, OIG spokesman Donald White said Jenkins was employed as a talent recruiter at Providence. A search by an exclusion screening vendor, ProviderTrust, shows Watson's license was cancelled, with an expiration date of July 31, 2007. She was excluded from Medicare in August 2007. It's unclear whether it is the same person.

After reporting Jenkins's employment, Providence was accepted into OIG's Self-Disclosure Protocol (SDP) on Oct. 15, 2019. The settlement said OIG contends Providence should have known Jenkins was excluded from participation in federal health care programs, and therefore no payments could be made for items or services she provided.

Providence Settles Exclusion Case

Excluded employees don't have to provide direct care to trigger civil monetary penalties, according to OIG's 2013 special advisory bulletin on exclusions.[1] The prohibition is sweeping. As OIG explained, no federal health care program payment will be made for goods or services provided by an excluded person, whether it's direct care, such as physicians' services, or indirect care, such as reviewing treatment plans, and "excluded persons are prohibited from furnishing administrative and management services that are payable by the Federal health care programs. This prohibition applies even if the administrative and management services are not separately billable," the bulletin states. "For example, an excluded individual may not serve in an executive or leadership role (e.g., chief executive officer, chief financial officer, general counsel, director of health information management, director of human resources, physician practice office manager) at a provider that furnishes items or services payable by Federal health care programs. Also, an excluded individual may not provide other types of administrative and management services, such as health information technology services and support, strategic planning, billing and accounting, staff training, and human resources, unless wholly unrelated to Federal health care programs."

The other two Providence settlements don't identify the names of the employees because they are no longer excluded from federal health care programs, White said. They are:

- Providence Health System-Southern California, doing business as Providence Little Company of Mary

Medical Centers, which includes two hospitals, agreed to pay $141,562 in connection with the employment of an excluded emergency services technician from Aug. 8, 2016, to June 5, 2019. Providence Little Company of Mary was accepted into the SDP Oct. 22, 2019.

- St. Joseph Health Personal Care Services, doing business as Nurse Next Door, agreed to pay $32,244 in connection with the employment of an excluded constant care attendant from Nov. 2, 2017, to Aug. 8, 2019. St. Joseph was accepted into the SDP Oct. 22, 2019.

Providence didn't admit liability in the settlements, which were obtained through the Freedom of Information Act. In a statement, Providence said it agreed to the settlements after voluntarily disclosing it failed to identify three employees who were on the LEIE before they were employed by Providence. "The employees worked at three separate locations in Los Angeles and Orange counties. None of the services provided by these employees were billed separately to Federal health care programs," the statement said. "After learning of gaps in its process for identifying excluded employees, Providence engaged a new third-party vendor to re-screen all workforce members. This is how we discovered the three employees on the LEIE. Providence voluntarily disclosed its non-compliance, worked with the OIG to timely resolve these issues and is satisfied that the new screening process will help ensure we do not inadvertently employ individuals on the LEIE in the future."