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From hassle to habit: Tips for exclusion screening and monitoring

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“Don’t forget to take the face mask with you when you go to the store,” my mother reminded me before I went grocery shopping this morning. Because of the highly contagious coronavirus, face masks have now become an essential attire for going places. As a result, in addition to checking for keys and credit cards before leaving home, I have developed the habit of grabbing my face mask prior to stepping out the door. I am sure this new ritual can resonate with numerous people. Although bringing and wearing a face mask may not count as a cumbersome task, it is indeed a hassle and inconvenience to many. Nonetheless, in accordance with the guidance issued by public health officials and for the safety of ourselves and others, we must incorporate face masks into our daily checklist whether we like it or not—and for the most part it has successfully turned into a habit of ours, welcomed or not.

Regardless, this new change did prompt me to ponder some of our compliance measures, such as exclusion checks. To reduce the risk of employing an excluded person or engaging a debarred vendor, the actual screening and the ongoing monitoring must take place. But with all the high demands that our healthcare workers are facing nowadays and all the paperwork that is mandated by various laws, how do we know our frontline staff members are following the necessary steps? How can we help our teams develop a habit of checking exclusion lists so that the exclusion screening is not lost in the shuffle? And how can we ensure the monitoring is truly effective and consistent? What are the specific measures that can be implemented to enhance effectiveness and consistency?

This article aims to share some practical tips and concrete steps that our fellow healthcare providers can use to enhance their internal exclusion monitoring.

Regulatory requirements on exclusion screening

Federal law prohibits providers from contracting with excluded individuals/entities or billing for items supplied or services rendered by such parties, including any articles furnished and job duties performed that are directly or indirectly paid by federal healthcare programs in whole or in part.^[1] Pursuant to sections 1128 and 1156 of the Social Security Act, the Office of Inspector General under the U.S. Department of Health & Human Services has the authority to exclude individuals and entities from participating in federal healthcare programs.^[2] As of March 2021, there were more than 74,380 individuals and entities in the List of Excluded Individuals and Entities (LEIE), which is a database maintained by the Office of Inspector General of all currently excluded individuals and entities.^[3] In addition to the LEIE, other databases, such as the System for Award Management—another official government web portal that contains multiple information sources and comprehensive data on debarment actions taken by various federal governmental agencies—may also need to be checked to avoid violations.

Any healthcare providers that employ or contract with excluded persons or entities may be subject to liability and

other significant penalties, including denial of payment for items claimed or services rendered;^[4] civil monetary penalties of \$10,000 for each item claimed or service provided; treble damages (i.e., three times the amounts submitted to Centers for Medicare & Medicaid Services (CMS) for reimbursement);^[5] program exclusion of the company;^[6] loss of right to bill CMS for items claimed or services rendered;^[7] additional fines for filing false claims under the False Claims Act^[8] (e.g., penalties up to \$11,000 per claim and possible placement in a corporate integrity agreement);^[9] and criminal fines and/or incarceration.^[10]

Because the penalties are not mutually exclusive, they can quickly add up. To avoid any potential overpayment and liability, healthcare providers are advised to conduct exclusion checks on prospective employees and contractors prior to the employment or engagement and to continue the exclusion monitoring each month to reduce the potential risk of hiring an excluded employee or contractor.

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