

PUBLICATION

OIG's List of Excluded Individuals/Entities – What Employers Need to Know

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The Office of Inspector General (OIG) maintains a list of all currently excluded individuals and entities called the "List of Excluded Individuals/Entities," or LEIE. Covered entities that hire – or continue to employ or work with – an individual or entity on the LEIE may be subject to civil monetary penalties (CMPs). To avoid this, covered entities should routinely check the LEIE to ensure that neither prospective nor current employees are on it.

The Social Security Act gives OIG the authority to exclude individuals and entities from federally funded health care programs. There are two types of exclusions: mandatory and permissive. OIG is required by law to exclude individuals and entities convicted of certain criminal offenses – namely, health care fraud. OIG then has discretion to exclude individuals and entities on a number of other grounds, including misdemeanor convictions related to health care fraud, fraud in connection with any government program, or defaults on health education loans or scholarship obligations. Any and all exclusions may be appealed to a U.S. Department of Health and Human Services (HHS) Administrative Law Judge. From there, appeals are heard by the HHS Departmental Appeals Board and then by federal courts as appropriate.

In terms of impact, no payment will be made for any items or services furnished, ordered, or prescribed – directly or indirectly – by an excluded individual or entity. This includes Medicare, Medicaid, and all other federal plans and programs that provide health benefits funded directly or indirectly by the federal government, other than the Federal Employees Health Benefits Plan. Not surprisingly, OIG has broadly interpreted the scope of activities from which an excluded individual or entity is barred. This has ranged from employing an excluded individual as a housekeeper (resulting in a \$180,000 CMP), as a dental assistant (resulting in a \$22,000 CMP), as a residential treatment specialist (resulting in a \$61,000 CMP), and even as an admission specialist (resulting in a \$96,000 CMP).

The LEIE is maintained in an [online searchable database](#) and can be searched by first or last name, or by an entity's name. Applicants should be checked against the database before an offer of employment is made. Employers should also routinely check current employees against the database – especially temporary, seasonal, or PRN employees. Unlike other areas of the law, no distinction is made between "employees" and "independent contractors." Regardless of how a company classifies its workforce, all workers should be checked against the LEIE.

For additional information regarding the LEIE or its impact on the workplace, please contact the author, [Zachary B. Busey](#), or any member of Baker Donelson's [Labor & Employment Group](#).