

§ 1001.2001

payable, a claim for such emergency items or services must be accompanied by a sworn statement of the person furnishing the items or services specifying the nature of the emergency and why the items or services could not have been furnished by an individual or entity eligible to furnish or order such items or services.

(ii) Notwithstanding paragraph (c)(5)(i) of this section, no claim for emergency items or services will be payable if such items or services were provided by an excluded individual who, through an employment, contractual or any other arrangement, routinely provides emergency health care items or services.

[57 FR 3330, Jan. 29, 1992, as amended at 60 FR 32917, June 26, 1995; 63 FR 46690, Sept. 2, 1998; 64 FR 39427, July 22, 1999]

Subpart E—Notice and Appeals

§ 1001.2001 Notice of intent to exclude.

(a) Except as provided in paragraph (c) of this section, if the OIG proposes to exclude an individual or entity in accordance with subpart C of this part, or in accordance with subpart B of this part where the exclusion is for a period exceeding 5 years, it will send written notice of its intent, the basis for the proposed exclusion and the potential effect of an exclusion. Within 30 days of receipt of notice, which will be deemed to be 5 days after the date on the notice, the individual or entity may submit documentary evidence and written argument concerning whether the exclusion is warranted and any related issues.

(b) If the OIG proposes to exclude an individual or entity under the provisions of § 1001.701 or § 1001.801 of this part, in conjunction with the submission of documentary evidence and written argument, an individual or entity may request an opportunity to present oral argument to an OIG official.

(c) *Exception.* If the OIG proposes to exclude an individual or entity under the provisions of §§ 1001.1301, 1001.1401 or 1001.1501 of this part, paragraph (a) of this section will not apply.

(d) If an entity has a provider agreement under section 1866 of the Act, and the OIG proposes to terminate that agreement in accordance with section

42 CFR Ch. V (10–1–99 Edition)

1866(b)(2)(C) of the Act, the notice provided for in paragraph (a) of this section will so state.

[63 FR 46690, Sept. 2, 1998, as amended at 63 FR 57918, Oct. 29, 1998]

§ 1001.2002 Notice of exclusion.

(a) Except as provided in § 1001.2003, if the OIG determines that exclusion is warranted, it will send a written notice of this decision to the affected individual or entity.

(b) The exclusion will be effective 20 days from the date of the notice.

(c) The written notice will state—

(1) The basis for the exclusion;

(2) The length of the exclusion and, where applicable, the factors considered in setting the length;

(3) The effect of the exclusion;

(4) The earliest date on which the OIG will consider a request for reinstatement;

(5) The requirements and procedures for reinstatement; and

(6) The appeal rights available to the excluded individual or entity.

(d) Paragraph (b) of this section does not apply to exclusions imposed in accordance with § 1001.1301.

(e) No later than 15 days prior to the final exhibit exchanges required under § 1005.8 of this chapter, the OIG may amend its notice letter if information comes to light that justifies the imposition of a different period of exclusion other than the one proposed in the original notice letter.

[57 FR 3330, Jan. 29, 1992, as amended at 63 FR 46690, Sept. 2, 1998]

§ 1001.2003 Notice of proposal to exclude.

(a) Except as provided in paragraph (c) of this section, if the OIG proposes to exclude an individual or entity in accordance with §§ 1001.901, 1001.951, 1001.1601 or 1001.1701, it will send written notice of this decision to the affected individual or entity. The written notice will provide the same information set forth in § 1001.2002(c). If an entity has a provider agreement under section 1866 of the Act, and the OIG also proposes to terminate that agreement in accordance with section 1866(b)(2)(C) of the Act, the notice will