

## § 1001.2007

(9) Other Departmental operating divisions, Federal agencies, and other agencies or organizations, as appropriate.

(b) In the case of an exclusion under § 1001.101 of this chapter, if section 304(a)(5) of the Controlled Substances Act (21 U.S.C. 824(a)(5)) applies, HHS will give notice to the Attorney General of the United States of the facts and circumstances of the exclusion and the length of the exclusion.

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

### § 1001.2007 Appeal of exclusions.

(a)(1) Except as provided in § 1001.2003, an individual or entity excluded under this Part may file a request for a hearing before an ALJ only on the issues of whether:

(i) The basis for the imposition of the sanction exists, and

(ii) The length of exclusion is unreasonable.

(2) When the OIG imposes an exclusion under subpart B of this part for a period of 5 years, paragraph (a)(1)(ii) of this section will not apply.

(3) The request for a hearing should contain the information set forth in § 1005.2(d) of this chapter.

(b) The excluded individual or entity has 60 days from the receipt of notice of exclusion provided for in § 1001.2002 to file a request for such a hearing.

(c) The standard of proof at a hearing is preponderance of the evidence.

(d) When the exclusion is based on the existence of a conviction, a determination by another government agency or any other prior determination, the basis for the underlying determination is not reviewable and the individual or entity may not collaterally attack the underlying determination, either on substantive or procedural grounds, in this appeal.

(e) The procedures in part 1005 of this chapter will apply to the appeal.

## Subpart F—Reinstatement into the Programs

### § 1001.3001 Timing and method of request for reinstatement.

(a)(1) Except as provided in paragraphs (a)(2) and (a)(3) of this section or in § 1001.501(b)(4) of this part, an ex-

## 42 CFR Ch. V (10–1–99 Edition)

cluded individual or entity (other than those excluded in accordance with §§ 1001.1001 and 1001.1501) may submit a written request for reinstatement to the OIG only after the date specified in the notice of exclusion. Obtaining a program provider number or equivalent does not reinstate eligibility.

(2) An entity under § 1001.1001 may apply for reinstatement prior to the date specified in the notice of exclusion by submitting a written request for reinstatement that includes documentation demonstrating that the standards set forth in § 1001.3002(c) have been met.

(3) Upon receipt of a written request, the OIG will require the requestor to furnish specific information and authorization to obtain information from private health insurers, peer review bodies, probation officers, professional associates, investigative agencies and such others as may be necessary to determine whether reinstatement should be granted.

(4) Failure to furnish the required information or authorization will result in the continuation of the exclusion.

(b) If a period of exclusion is reduced on appeal (regardless of whether further appeal is pending), the individual or entity may request reinstatement once the reduced exclusion period expires.

[57 FR 3330, Jan. 29, 1992, as amended at 63 FR 46691, Sept. 2, 1998]

### § 1001.3002 Basis for reinstatement.

(a)(1) The OIG will authorize reinstatement if it determines that—

(i) The period of exclusion has expired;

(ii) There are reasonable assurances that the types of actions that formed the basis for the original exclusion have not recurred and will not recur; and

(iii) There is no additional basis under sections 1128(a) or (b) or 1128A of the Act for continuation of the exclusion.

(2) Submitting claims or causing claims to be submitted or payments to be made by the programs for items or services furnished, ordered or prescribed, including administrative and management services or salary, may