

§ 1001.2005 Notice to State licensing agencies.

(a) HHS will promptly notify the appropriate State(s) or local agencies or authorities having responsibility for the licensing or certification of an individual or entity excluded (or directed to be excluded) from participation of the facts and circumstances of the exclusion.

(b) HHS will request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and will request that the State or local agency or authority keep the Secretary and the OIG fully and currently informed with respect to any actions taken in response to the request.

§ 1001.2006 Notice to others regarding exclusion.

(a) HHS will give notice of the exclusion and the effective date to the public, to beneficiaries (in accordance with § 1001.1901(c)), and, as appropriate, to—

(1) Any entity in which the excluded individual is known to be serving as an employee, administrator, operator, or in which the individual is serving in any other capacity and is receiving payment for providing services (The lack of this notice will not affect HCFA's ability to deny payment for services);

(2) State Medicaid Fraud Control Units;

(3) Utilization and Quality Control Peer Review Organizations;

(4) Hospitals, skilled nursing facilities, home health agencies and health maintenance organizations;

(5) Medical societies and other professional organizations;

(6) Contractors, health care prepayment plans, private insurance companies and other affected agencies and organizations;

(7) The State and Area Agencies on Aging established under title III of the Older Americans Act;

(8) The National Practitioner Data Bank.

(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 excluded 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