

AUTHORITY: 42 U.S.C. 1302, 1320-7, 1320a-7a, 1320b-10, 1395u(j), 1395u(k), 1395cc(j), 1395dd(d)(1), 1395mm, 1395nn(g), 1395ss(d), 1396b(m), 11131(c) and 11137(b)(2).

SOURCE: 51 FR 34777, Sept. 30, 1986, unless otherwise noted.

**§ 1003.100 Basis and purpose.**

(a) *Basis.* This part implements sections 1128(c), 1128A, 1140, 1876(i)(6), 1877(g), 1882(d) and 1903(m)(5) of the Social Security Act, and sections 421(c) and 427(b)(2) of Pub. L. 99-660 (42 U.S.C. 1320a-7, 1320a-7a, 1320a-7(c), 1320b(10), 1395mm, 1395ss(d), 1396b(m), 11131(c) and 11137(b)(2)).

(b) *Purpose.* This part—

(1) Provides for the imposition of civil money penalties and, as applicable, assessments against persons who—

(i) Have knowingly submitted certain prohibited claims under Federal health care programs;

(ii) Seek payment in violation of the terms of an agreement or a limitation on charges or payments under the Medicare program, or a requirement not to charge in excess of the amount permitted under the Medicaid program;

(iii) Give false or misleading information that might affect the decision to discharge a Medicare patient from the hospital;

(iv) Fail to report information concerning medical malpractice payments or who improperly disclose, use or permit access to information reported under part B of title IV of Public Law 99-660, and regulations specified in 45 CFR part 60;

(v) Misuse certain Departmental and Medicare and Medicaid program words, letters symbols or emblems;

(vi) Violate a requirement of section 1867 of the Act or §489.24 of this title;

(vii) Substantially fail to provide an enrollee with required medically necessary items and services; engage in certain marketing, enrollment, reporting, claims payment, employment or contracting abuses; or do not meet the requirements for physician incentive plans for Medicare specified in §§417.479(d) through (f) of this title;

(viii) Present or cause to be presented a bill or claim for designated health services (as defined in §411.351 of this title) that they know, or should know, were furnished in accordance

with a referral prohibited under §411.353 of this title;

(ix) Have collected amounts that they know or should know were billed in violation of §411.353 of this title and have not refunded the amounts collected on a timely basis;

(x) Are physicians or entities that enter into an arrangement or scheme that they know or should know has as a principal purpose the assuring of referrals by the physician to a particular entity which, if made directly, would violate the provisions of §411.353 of this title;

(xi) Are excluded, and who retain an ownership or control interest of five percent or more in an entity participating in Medicare or a State health care program, or who are officers or managing employees of such an entity (as defined in section 1126(b) of the Act);

(xii) Offer inducements that they know or should know are likely to influence Medicare or State health care program beneficiaries to order or receive particular items or services; or

(xiii) Are physicians who knowingly misrepresent that a Medicare beneficiary requires home health services;

(2) Provides for the exclusion of persons from the Medicare or State health care programs against whom a civil money penalty or assessment has been imposed, and the basis for reinstatement of persons who have been excluded; and

(3) Sets forth the appeal rights of persons subject to a penalty, assessment and exclusion.

[ 65 FR 24414, Apr. 26, 2000]

**§ 1003.101 Definitions.**

For purposes of this part:

*Act* means the Social Security Act.

*Adverse effect* means medical care has not been provided and the failure to provide such necessary medical care has presented an imminent danger to the health, safety, or well-being of the patient or has placed the patient unnecessarily in a high-risk situation.

*ALJ* means an Administrative Law Judge.

*Assessment* means the amount described in §1003.104, and includes the plural of that term.