




TENNCARE POLICY MANUAL

Policy No:	PI 11-002 (Rev. 2)	
Subject:	Contractor and Provider Screening of Employees and Contractors	
Approval:		Date: 7/10/2017

BACKGROUND:

The Office of Inspector General in the federal Department of Health and Human Services (HHS-OIG) has the authority to exclude certain individuals and entities from participation not only in Medicaid, but in Medicare, CHIP, and all federal health care programs. This authority is contained in various sections of the Social Security Act, including sections 1128 and 1156.

TennCare is generally prohibited from paying for any items or services furnished, ordered, or prescribed by excluded individuals or entities.¹ This prohibition extends to all methods of reimbursement, including payment for “administrative and management services not directly related to patient care, but that are a necessary component of providing items and services to Medicaid recipients” and “payment to cover an excluded individual’s salary, expenses or fringe benefits, regardless of whether they provide direct patient care, when those payments are . . . payable by the Medicaid program.”²

TennCare contractors and providers³ have an obligation to ensure that neither they nor their subcontractors compensate excluded entities or individuals with Title XIX dollars. Excluded individuals may not receive any direct or indirect compensation in wages or benefits from Title XIX dollars. If the State makes a payment to a contractor or provider that employs or subcontracts with an excluded entity or provider, then that payment can be considered an overpayment under sections 1903(d)(2)(A) and 1903(i)(2) of the Social Security Act and therefore subject to recoupment.

¹ Section 1903(i)(2) of the Social Security Act; 42 C.F.R. § 1001.1901.

² State Medicaid Director Letter 09-001, January 16, 2009.

³ The term “contractors” applies to any entity with which TennCare has a contract—Managed Care Contractors (MCCs), Fiscal Agents, etc. The term “providers” refers to entities that furnish health care services to TennCare enrollees.

Civil money penalties may be imposed against Medicaid providers and managed care contractors (MCCs) that compensate excluded individuals or entities with federal health care program funds, including Title XIX dollars. Any payments made pursuant to those contracts or subcontracts are considered overpayments and must be repaid.⁴

PROCEDURES:

All TennCare contractors, as well as its subcontractors and providers, are required to screen their owners and employees, both initially and on an ongoing monthly basis, against the HHS-OIG List of Excluded Individuals/Entities (LEIE) and General Services Administration (GSA) System for Award Management (SAM) to identify individuals and entities excluded or debarred from participating in federal health care programs. According to the terms of TennCare's managed care contracts, MCCs are prohibited from executing provider agreements with providers who have been excluded from participation in federal health care programs pursuant to sections 1128 and 1156 of the Social Security Act. Furthermore, the MCCs' provider agreements require that providers do not employ or contract with an individual or entity that has been excluded or debarred.

Contractors are required to submit the results of their monthly screenings to TennCare's Office of Program Integrity (OPI) on a monthly basis via the Program Integrity Exception Report. Additionally, providers are required to immediately report to the managed care contractor any information regarding employees identified as excluded or debarred as a result of the monthly screenings. Any payments made to a contractor, subcontractor, or provider after the date of federal exclusion are considered overpayments and are subject to recoupment in accordance with the procedures outlined in TennCare Policy No. PI 11-001 regarding overpayments.

OFFICES OF PRIMARY RESPONSIBILITY:

Office of Program Integrity

REFERENCES:

Social Security Act

Section 1128A(a)(6)

Section 1903(i)(2)

http://www.socialsecurity.gov/OP_Home/ssact/ssact-toc.htm

Code of Federal Regulations

42 C.F.R. § 1001.1901(b)

42 C.F.R. § 1003.102(a)(2)

<https://www.gpo.gov/fdsys/browse/collectionCfr.action?selectedYearFrom=2016&go=Go>

⁴ Section 1128A(a)(6) of the Social Security Act; 42 CFR § 1003.102(a)(2).

State Medicaid Director Letter 09-001 (January 16, 2009)

<http://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SMD011609.pdf>

MCO Contractor Risk Agreement (CRA)

Section A.2.11.1.3.1

Section A.2.12.5

Section A.2.12.9.39

Section A.2.20.1.6

Section A.2.21.9.2

Section A.2.22.14.1

Section A.2.30.15.5

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