



Hamilton Insurance Agency

Hamilton News

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OIG Exclusions from Employment

Note to Healthcare employers who participate in Medicare or Medicaid:

\$1.6 Million in penalties have been imposed (so far this year) on healthcare entities in TX, PA, NC, VA, IA, CA, GA, ND, AZ, UT, and MN for having "employed an individual that it knew or should have known was excluded from participation in a Federal health care program."

The Office of Inspector General (OIG), under the direction of the Department of Health and Human Services (HHS), protects Federal healthcare programs and beneficiaries from fraud, waste and abuse. The OIG has oversight for several public health agencies and programs including the Centers for Medicare and Medicaid Services (CMS) and Children's Health Insurance Program (CHIP). It maintains a current List of Excluded Individuals and Entities (LEIE) - untrustworthy healthcare providers that pose risks to beneficiaries or programs and are excluded from participation in all Federal healthcare programs. No payment will be made for any items or services furnished, ordered or prescribed by an excluded entity or individual.

Exclusions arise from convictions for program-related crimes such as:

- Patient abuse or neglect
- Felony convictions - healthcare related fraud
- Theft
- Financial misconduct
- Felony convictions of manufacturing, distribution, prescription or dispensing of controlled substances

And, exclusions can arise from suspension, revocation or surrender of a healthcare license due to professional competence, performance, or financial integrity; provision of unnecessary or substandard services; submission of false or fraudulent claims to a Federal healthcare program; engaging in unlawful kickback arrangements; defaulting on health education loan or scholarship

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Reasonable Accommodation of a Disability

The Department of Labor views a reasonable accommodation as a "change in the workplace conditions that enables an individual with a disability to apply for a job, perform the essential functions of a job, or enjoy equal access to the benefits and privileges of employment."

Recent court cases lead us to

obligations; or controlling a sanctioned entity as owner, officer or managing employee.

Anyone hiring an individual or entity identified on the LEIE can be subject to Civil Monetary Penalties (CMP). To avoid CMP liability, healthcare entities should routinely check the LEIE to ensure new hires and current employees are not on the list. The OIG Exclusions Database can be viewed at <http://exclusions.oig.hhs.gov/>.

SUMMER VACATION

Wise words about taking a break

"Every person needs to take one day away. A day in which one consciously separates the past from the future. Jobs, family, employers, and friends can exist one day without any one of us, and if our egos permit us to confess, they could exist eternally in our absence. Each person deserves a day away in which no problems are confronted, no solutions searched for. Each of us needs to withdraw from the cares which will not withdraw from us."

-- Maya Angelou, *Wouldn't Take Nothing for My Journey Now*

Are You a Federal Contractor?

Pay attention when your sales department is awarded a contract to provide goods or services to a federal or federally assisted agency. Stop and think about potential Equal Employment Opportunity and Affirmative Action obligations. If you have at least one federal contract with a value of \$10,000 or more, you are a federal contractor and are required to comply with Executive Order 11246, prohibiting employment discrimination on the basis of race, color, religion, sex, or national origin, and Section 503 of the Rehabilitation Act prohibiting discrimination in the employment of individuals with disabilities. Your compliance is primarily represented in your policies, procedures, and notices.

As the volume of your government business increases, so do your compliance requirements. Federal contractors with 50 or more employees and a supply or service contract (or subcontract) of \$50,000 or more must have a written Affirmative Action Plan (AAP) for the employment of women, minorities, and disabled individuals. A contract (or subcontract) of \$100,000 or more requires an AAP for veterans. An AAP for the employment of women and minorities includes a narrative description of your outreach, recruitment, and training as well as specific statistical workforce analysis and reporting by job group. An AAP for the employment of individuals with disabilities and protected veterans includes a description of your targeted efforts to attract these populations. While statistical analysis and reporting on the

believe that employers need to have an open mind when it comes to requests for accommodation. In some cases the request may not seem directly related to an employee's performance of their essential duties. So it is important that managers are trained to not react negatively to a request without careful consideration and guidance. Only the interactive process required by the regulations - an open dialogue between the individual and the employer - can get to the heart of the issue.

Get help. The Job Accommodation Network (JAN) is a service of the Office of Disability Employment Policy in the Department of Labor. Their excellent website <https://askjan.org> and counselors offer resources to help an employer with complicated situations. Examples include work-site accessibility, what questions you can ask, and how to make your online employment process user-friendly to a disabled candidate.

What is the difference between Equal Employment Opportunity and Affirmative Action?

Equal Employment Opportunity (EEO) means providing a work environment free from discrimination (on the basis of gender, color, religion, national origin, disability, age, veteran status) in all aspects of employment (hiring, promotion, training, benefits, etc.). This is guaranteed by federal and state employment laws and enforced by the Equal Employment Opportunity Commission (EEOC).

employment of disabled individuals and veterans was not required in the past, recent changes in the regulations will require reporting against a new 7% utilization goal for disabled individuals and a benchmark for veterans (currently estimated to be 8%). But, federal contractors are specifically forbidden from setting selection quotas or "set asides." Employment decisions must be made on merit.

The Office of Federal Contract Compliance Programs (OFCCP) enforces the affirmative action mandates. See <http://www.dol.gov/ofccp>. If you are not sure whether you have an affirmative action obligation, there is a helpful step by step Q&A at: <http://www.dol.gov/elaws/ofccp.htm>.

Affirmative Action means going the extra step to proactively recruit, hire, and promote women, minorities, disabled individuals, and veterans, particularly in situations where the employer's workforce does not reflect the demographics of the available labor pool. It is often an effort to correct previous discrimination. Affirmative Action can be done voluntarily, but is required for federal contractors.

This newsletter is provided in partnership with HR Business Solutions, a human resources consulting and project management firm which provides employee benefit plan compliance services, compensation program evaluation and development, training, and employee relations solutions to emerging and middle market employers. For more information about the topics covered in this newsletter or the employer's responsibilities, please contact HR Business Solutions at 804.740.7952, Katherine@hrbsolutions.com, or www.hrbsolutions.com.

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Hamilton Insurance, a top ranked independent broker in the Washington DC/Metropolitan Area and the nation, has over 35 years of experience in providing insurance brokerage, risk management, and administrative solutions. It represents a full suite of commercial, health & welfare, and personal insurance solutions, supported by risk compliance and group benefit administrative services.

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