Office of Inspector General—Health Care, HHS § 1001.1301

Failure to grant immediate access.

(a) Circumstance for exclusion. (1) The OIG may exclude any individual or entity that fails to grant immediate access upon reasonable request to—
   (i) The Secretary, a State survey agency or other authorized entity for the purpose of determining, in accordance with section 1864(a) of the Act, whether—
      (A) An institution is a hospital or skilled nursing facility;
      (B) An agency is a home health agency;
      (C) An agency is a hospice program;
      (D) A facility is a rural health clinic as defined in section 1861(aa)(2) of the Act, or a comprehensive outpatient rehabilitation facility as defined in section 1861(cc)(2) of the Act;
      (E) A laboratory is meeting the requirements of section 1861(s)(15) and (16) of the Act, and section 353(f) of the Public Health Service Act;
      (F) A clinic, rehabilitation agency or public health agency is meeting the requirements of section 1861(p)(4) (A) or (B) of the Act;
      (G) An ambulatory surgical center is meeting the standards specified under section 1832(a)(2)(F)(i) of the Act;
      (H) A portable x-ray unit is meeting the requirements of section 1861(s)(3) of the Act;
      (I) A screening mammography service is meeting the requirements of section 1834(c)(3) of the Act;
      (J) An end-stage renal disease facility is meeting the requirements of section 1881(b) of the Act;
      (K) A physical therapist in independent practice is meeting the requirements of section 1861(p) of the Act;
      (L) An occupational therapist in independent practice is meeting the requirements of section 1861(g) of the Act;
      (M) An organ procurement organization meets the requirements of section 1138(b) of the Act; or.
      (N) A rural primary care hospital meets the requirements of section 1820(i)(2) of the Act;
   (ii) The Secretary, a State survey agency or other authorized entity to perform the reviews and surveys required under State plans in accordance with sections 1902(a)(26) (relating to inpatient mental hospital services), 1902(a)(31) (relating to intermediate care facilities for the mentally retarded), 1919(g) (relating to nursing facilities), 1929(i) (relating to providers of home and community care and community care settings), 1902(a)(33) and 1903(g) of the Act;
   (iii) The OIG for the purposes of reviewing records, documents and other data necessary to the performance of the Inspector General’s statutory functions; or
   (iv) A State Medicaid fraud control unit for the purpose of conducting its activities.

   (2) For purposes of paragraphs (a)(1)(i) and (a)(1)(ii) of this section, the term—
   Failure to grant immediate access means the failure to grant access at the time of a reasonable request or to provide a compelling reason why access may not be granted.
   Reasonable request means a written request made by a properly identified agent of the Secretary, of a State survey agency or of another authorized entity, during hours that the facility, agency or institution is open for business.

   The request will include a statement of the authority for the request, the rights of the entity in responding to the request, the definition of reasonable request and immediate access, and the penalties for failure to comply, including when the exclusion will take effect.

   (3) For purposes of paragraphs (a)(1)(iii) and (a)(1)(iv) of this section, the term—
   Failure to grant immediate access means:
      (i) Except where the OIG or State Medicaid fraud control unit reasonably believes that requested documents are about to be altered or destroyed, the failure to produce or make available for inspection and copying requested records upon reasonable request, or to provide a compelling reason why they
§ 1001.1401 Violations of PPS corrective action.

(a) Circumstance for exclusion. The OIG may exclude any hospital that CMS determines has failed substantially to comply with a corrective action plan required by CMS under section 1886(f)(2)(B) of the Act.

(b) Length of exclusion. The following factors will be considered in determining the length of exclusion under this section—

(1) The impact of the hospital's failure to comply on Medicare, Medicaid or any of the other Federal health care programs, program beneficiaries or other individuals;

(2) The circumstances under which the failure occurred;

(3) The nature of the failure to comply;

(4) The impact of the exclusion on Medicare, Medicaid or any of the other Federal health care programs, beneficiaries or the public; and

(5) Whether the individual or entity has a documented history of criminal, civil or administrative wrongdoing (The lack of any prior record is to be considered neutral).

§ 1001.1501 Default of health education loan or scholarship obligations.

(a) Circumstance for exclusion. (1) Except as provided in paragraph (a)(4) of this section, the OIG may exclude any