Office of Personnel Management

§ 890.1052 Reinstatement

§ 890.1051 Applying for reinstatement when period of debarment expires.

(a) Application required. Reinstatement is not automatic when the minimum period of a provider’s debarment expires. The provider shall apply in writing to OPM, supplying specific information about the reinstatement criteria outlined in paragraph (c) of this section.

(b) Reinstatement date. A debarred provider may submit a reinstatement application not earlier than 60 days before the nominal expiration date of the debarment. However, in no case shall OPM reinstate a provider before the minimum period of debarment expires.

(c) Reinstatement criteria. To be approved, the provider’s reinstatement application shall clearly demonstrate that:

(1) There are reasonable assurances that the actions resulting in the provider’s debarment have not recurred and will not recur;

(2) There is no basis under this subpart for continuing the provider’s debarment; and

(3) There is no pending criminal, civil, or administrative action that would subject the provider to debarment by OPM.

(d) Written notice of OPM action. OPM shall inform the provider in writing of its decision regarding the reinstatement application.

(e) Limitation on reapplication. If OPM denies a provider’s reinstatement application, the provider is not eligible to reapply for 1 year after the date of the denial.

§ 890.1052 Reinstatements without application.

OPM shall reinstate a provider without a reinstatement application if:

(a) Conviction reversed. The conviction on which the provider’s debarment was based is reversed or vacated by a final decision of the highest appeals court with jurisdiction over the case; and the prosecutorial authority with jurisdiction over the case has declined to retry it, or the deadline for retrial has expired without action by the prosecutor.

(b) Sanction terminated. A sanction imposed by another Federal agency, on
§ 890.1053 which the debarment was based, is terminated by that agency.

(c) Court order. A Federal court orders OPM to stay, rescind, or terminate a provider’s debarment.

§ 890.1053 Table of procedures and effective dates for reinstatements.

The procedures and effective dates for reinstatements under this subpart are:

<table>
<thead>
<tr>
<th>Basis for debarment</th>
<th>Application required?</th>
<th>Effective date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period of debarment expires</td>
<td>Yes</td>
<td>After debarment expires</td>
</tr>
<tr>
<td>Conviction reversed on final appeal/no retrial possible</td>
<td>No</td>
<td>Retroactive (start of debarment)</td>
</tr>
<tr>
<td>Other agency sanction ends</td>
<td>No</td>
<td>Ending date of sanction</td>
</tr>
<tr>
<td>Court orders reinstatement</td>
<td>No</td>
<td>Retroactive (start of debarment)</td>
</tr>
</tbody>
</table>

§ 890.1054 Agencies and entities to be notified of reinstatements.

OPM shall inform the FEHBP carriers, Government agencies and other organizations that were originally notified of a provider’s debarment when a provider is reinstated under § 890.1051 or § 890.1052.

§ 890.1055 Contesting a denial of reinstatement.

(a) Obtaining reconsideration of the initial decision. A provider may contest OPM’s decision to deny a reinstatement application by submitting documents and written arguments to the debarring official within 30 days of receiving the notice described in § 890.1051(d). In addition, the provider may request to appear in person to present oral arguments to the debarring official. The provider may be accompanied by counsel when making a personal appearance.

(b) Debarring official’s final decision on reinstatement. The debarring official shall issue a final written decision, based on the entire administrative record, within 30 days after the record closes to receipt of information. The debarring official may extend the decision period for good cause.

(c) Finality of debarring official’s decision. The debarring official’s final decision regarding a provider’s reinstatement is not subject to further administrative review or reconsideration.

CIVIL MONETARY PENALTIES AND FINANCIAL ASSESSMENTS

§ 890.1060 Purpose and scope of civil monetary penalties and assessments.

(a) Civil monetary penalty. A civil monetary penalty is an amount that OPM may impose on a health care provider who commits one of the violations listed in § 890.1061. Penalties are intended to protect the integrity of FEHBP by deterring repeat violations by the same provider and by reducing the likelihood of future violations by other providers.

(b) Assessment. An assessment is an amount that OPM may impose on a provider, calculated by reference to the claims involved in the underlying violations. Assessments are intended to recognize monetary losses, costs, and damages sustained by OPM as the result of a provider’s violations.

(c) Definitions. In §§ 890.1060 through 890.1072:

Penalty means civil monetary penalty; and

Penalties and assessments may connote the singular or plural forms of either of those terms, and may represent either the conjunctive or disjunctive sense.

(d) Relationship to debarment and suspension. In addition to imposing penalties and assessments, OPM may concurrently debar or suspend a provider from participating in the FEHBP on the basis of the same violations.