

# The Critical Role of Exclusion Checks in Compliance Programs



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'Exclusion checks, exclusion checks, exclusion checks,' what is it all about?

Exclusion checks are an important aspect of an effective compliance program. The U.S. Department of Health and Human Services Office of Inspector General (OIG) has the legal authority to exclude individuals and entities from participation in all Federal health care programs such as Medicare and Medicaid.

The effect of an OIG exclusion is that no Federal health care program payment may be made for any items or services furnished: (1) by an excluded person, or (2) at the medical direction or on the prescription of an excluded person. Payment for claims submitted to a Federal health care program for items or services furnished by an excluded individual or entity results in an overpayment, regardless of whether the excluded individual had a provider identification number and the ability to bill separately.

If an entity employs an excluded individual or entity, it may have civil monetary penalties (CMP) liability related to the items or services that individual is providing.

Some examples of this type of enforcement include:

- A health care provider entity that paid \$300,000 to settle allegations that they employed an individual who was excluded from participating in any Federal health care program. OIG's investigation revealed that the excluded individual, a charge nurse, provided items or services that were billed to Federal health care programs.
- A health system paid \$184,000 to resolve allegations they employed an excluded individual. This individual provided items or services that were billed to Federal health care programs.
- A provider entity paid \$115,381 to settle allegations they employed an excluded individual who provided administrative and management services that were deemed to be items or services billed to Federal health care programs.
- A health care group paid \$115,096 to resolve allegations they employed a registered nurse who was excluded from participating in Federal health care programs. The nurse provided items or services that were billed to Federal health care programs.

The OIG maintains a database or list of excluded individuals and entities called the LEIE Database. It can be found [here](#).

Organizations should perform monthly monitoring checks against this list to determine if they are employing or contracting with any individual or entity on that list. In addition, many State Medicaid programs maintain their own state list of excluded individuals. These lists should also be monitored against employees and business partners.

## CONSEQUENCES OF EMPLOYING AN EXCLUDED INDIVIDUAL

The ramifications of employing an excluded individual can be significant. If an excluded individual provides items or services that are paid for by a Federal health care program, the employer may be required to return those funds.

The prohibition on Federal health care program payment for items or services furnished by an excluded individual includes items and services beyond direct patient care. For instance, the prohibition applies to services performed by excluded individuals who work for or under an arrangement with a hospital, nursing home, home health agency, or managed care entity when such services are related to, for example, preparation of surgical trays or review of

treatment plans, regardless of whether such services are separately billable or are included in a bundled payment.

Excluded persons are prohibited from furnishing administrative and management services that are payable by the Federal health care programs. This prohibition applies even if the administrative and management services are not separately billable. For example, an excluded individual may not serve in an executive or leadership role (e.g., chief executive officer, chief financial officer, general counsel, director of health information management, director of human resources, physician practice office manager, etc.) at a provider that furnishes items or services payable by Federal health care programs. Also, an excluded individual may not provide other types of administrative and management services, such as health information technology services and support, strategic planning, billing and accounting, staff training, and human resources, unless wholly unrelated to Federal health care programs.

The OIG has published a very helpful advisory bulletin that describes other details related to excluded individuals. It is a must read for compliance professionals and can be found [here](#).

## KEY ACTIONS TO TAKE IF EXCLUDED INDIVIDUAL IS EMPLOYED OR CONTRACTED

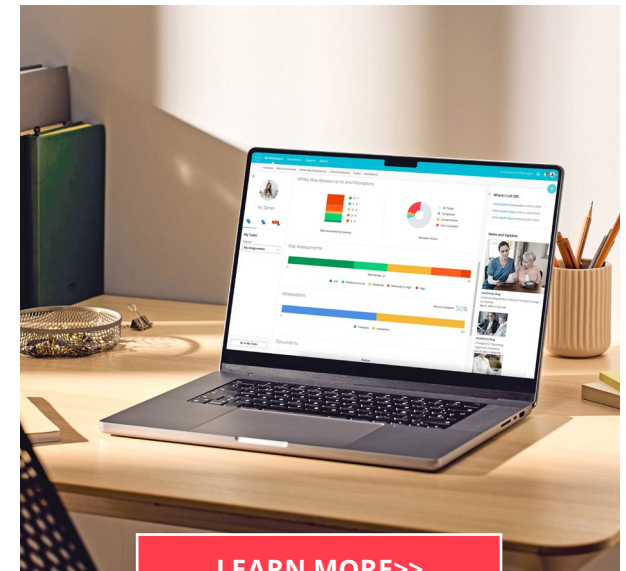
If an entity discovers that it has employed or contracted with an excluded individual or entity, the entity should evaluate its overpayment and CMP liability. It is recommended that entities in this situation consider whether to submit a self-disclosure through the [Health Care Fraud Self-Disclosure Protocol](#).

Entities may choose to rely on screening conducted by a contractor (e.g., compliance software vendor, staffing agency, physician group, or third-party billing or coding company), but OIG recommends that entities validate that the contractor is conducting such screening on behalf of the provider (e.g., by requesting and maintaining screening documentation from the contractor). The entity remains responsible for any overpayment or CMP liability that may result from employing or contracting with an excluded individual or entity.

## EXCLUSION MONITORING RESOURCES

Healthicity offers exclusion monitoring through its software product Compliance Manager. Exclusion monitoring in Compliance Manager provides automated compliance screening for your organization that is both easy and comprehensive.

Since the OIG exclusion list is updated monthly, having an automated solution to monitoring regularly can save compliance professionals a lot of time and worry. You can learn more about Compliance Manager or see a demo [here](#).



## CONCLUSION

Exclusion checks or monitoring is an essential part of health care organizations' compliance programs. One way to obtain peace of mind is to automate the process of regularly checking the exclusion list against employees and business partners.



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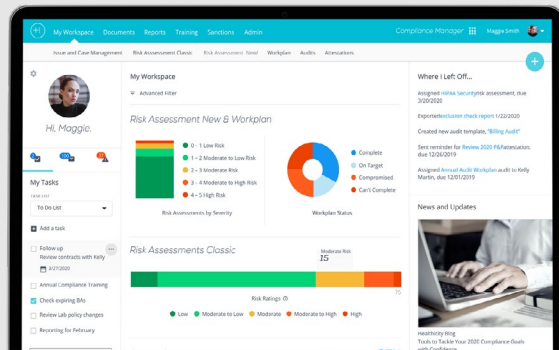
CJ Wolf is a healthcare professional with more than 20 years of experience in hospital and physician revenue cycle, practice management, compliance, coding, billing, and client services. He has provided healthcare consulting and solution services to hospitals and physician organizations throughout the country.





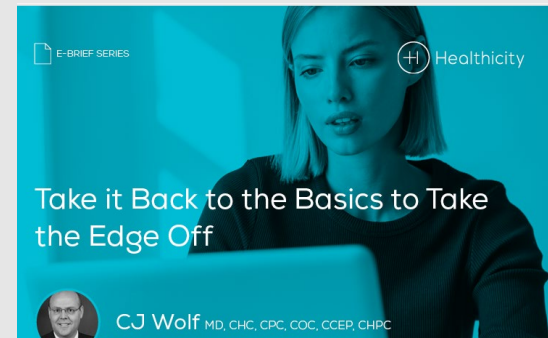
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