

LOS ANGELES COUNTY DEPARTMENT OF MENTAL HEALTH



Policy Title: Contractor's Eligibility to Participate in and Secure Federally Funded Health Care Program Contracts

Policy Number: 106.04

Policy Category: Administrative

Distribution Level: Directly-Operated Programs and Contracted Agencies

Responsible Party: Compliance, Privacy, and Audit Services

I. POLICY STATEMENT

This policy prohibits contracting with or employing individuals or entities that are excluded, suspended, debarred, or otherwise ineligible from participating in, receiving funds under, or securing federally funded health care program contracts.

This policy avoids imposition of Civil Monetary Penalty (CMP) against Los Angeles County Department of Mental Health (DMH).

This policy ensures compliance with federal, State, and County contracting regulations.

Contracted agencies shall develop an internal policy and associated procedures that are consistent with their organizational practices and meet the requirements set forth in this policy.

II. DEFINITIONS

Civil Monetary Penalty (CMP): Any penalty, fine, or other sanction that is for a specific monetary amount or has a maximum amount provided by federal law; is assessed or enforced by an agency pursuant to federal law; and is assessed or enforced pursuant to an administrative proceeding or a civil action in the federal courts. (Public Law 101-410 § 3(2))

- DMH shall not be held responsible for the non-compliant actions of a contractor. Identifiable costs incurred by DMH as a result of unauthorized claims and all corrective actions related to those unauthorized claims shall be repaid by the contractor to DMH.

Contractor: Any individual or entity that has entered into legal agreement with DMH to provide goods or services including, but not limited to, legal entities and subcontractors.

Contractor Staff: Any individual, paid or non-paid, whose work is under direct control of a DMH contractor including, but not limited to, full-time, part-time, temporary, and permanent staff, interns, volunteers, and subcontractors.

Direct Service: Health and mental health care service provided for or to a client.

Exclusion: A determination made by a federal governing body (e.g., HHS-OIG) that an individual or entity is ineligible to render services or receive payment under any federally

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funded health care programs for goods and services furnished, ordered or prescribed. This includes overhead functions (administrative and management) not directly related to client care that are a necessary component of providing services to federal program beneficiaries. This determination continues to apply if there is change from one health care profession to another while excluded.

- There is no automatic reinstatement for exclusion. The excluded individual or entity shall remain ineligible until such time as all specified reinstatement procedures are completed, regardless of whether the period of exclusion has ended. Completion of the reinstatement process is subject to the sanctioning agency's approval.

Indirect Service: Administrative or management service not directly related to patient care but is a necessary component of providing services to clients including, but not limited to, management, finance, human resources, information technology, legal, general administration, and facilities support.

Sanction List: Federal, State and County Sanction Lists used to screen all individuals and entities to ensure they are not currently excluded, suspended, debarred, or otherwise made ineligible from participation in federally funded health care programs including, but not limited to, Medicare and Medi-Cal.

Suspension: A determination made by a State governing body (e.g., DHCS) that an individual or entity is ineligible to render services or receive payment under any federally funded health care programs for goods and services furnished, ordered, or prescribed. This includes overhead functions (administrative and management) not directly related to client care that are a necessary component of providing services to federal program beneficiaries. This determination continues to apply to an individual or entity if they change from one health care profession to another while suspended.

- There is no automatic reinstatement for suspension. The suspended individual or entity shall remain ineligible until such time as all specified reinstatement procedures are completed, regardless of whether the period of suspension has ended. Completion of the reinstatement process is subject to the sanctioning agency's approval

Withhold Claims: A hold placed on claims submitted by potentially excluded or suspended individuals or entities. This action allows the claims to be submitted to DMH claiming system but requires that claims be held back from being forwarded to the State for approval and payment.

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III. POLICY

DMH shall not knowingly enter into or maintain contracts with:

- Individuals or entities who have been recently convicted of a criminal offense related to health care; or
- Individuals or entities who are excluded, suspended, or otherwise ineligible to provide services under federally funded health care programs including, but not limited to, Medicare and Medi-Cal.

DMH shall not knowingly reimburse or make payments to any individual or entity that is excluded, suspended, debarred, or otherwise ineligible to provide services under federally funded health care programs.

Chief Information Office shall stop processing claims and/or withhold claims upon receiving a Suspension and/or Exclusion Notification Form to prevent claims submitted by potentially excluded, suspended, debarred, or otherwise ineligible individuals and entities from receiving payment for goods or services furnished, ordered or prescribed under any federally funded health care programs.

- DMH shall diligently coordinate with contractors to resolve the identification of individuals who are potentially excluded, suspended, debarred, or otherwise ineligible to claim in an attempt to release withheld claims for processing in a reasonable time frame.

If an individual or entity fails to cooperate with DMH in resolving the identity of a potentially excluded, suspended, debarred, or otherwise ineligible individual, DMH may sanction the contractor, consistent with DMH Policy 106.08. Egregious actions are subject to contract termination without progressive disciplinary actions.

DMH shall immediately terminate any contract when it is determined that a contracted entity is controlled by a sanctioned individual. An individual controls an entity if:

- The individual owns five (5) percent or more of the entity, or
- The individual is an officer, director, agent, or managing employee of the entity. (42 U.S. Code § 1320a-7(b)(8)).

Contractors shall review federal, State and County Sanction Lists as required by federal and State regulations to ensure that contractor staff have not been excluded, suspended,

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debarred, or otherwise made ineligible to provide services under federally funded health care programs.

Contractors shall reimburse DMH for claims submitted to and paid by DMH for services rendered by excluded and/or suspended contractor staff.

Contractors shall reimburse DMH for CMPs incurred as a result of claims submitted by their excluded and/or suspended contractor staff.

Contractors shall provide an attestation to DMH annually to certify that sanction screening has been completed as required by federal and State regulations.

IV. PROCEDURES

[Click here to view procedures.](#)

V. AUTHORITY

[California Department of Health Care Services Annual Review Protocol for Specialty Mental Health Services and Other Funded Services Fiscal Year 2018-2019;](#)

[California Department of Mental Health Letter 10-05, September 3, 2010;](#)

[California Welfare and Institutions Code Section 14043.61;](#)

[Code of Federal Regulations Title 42 Part 1003 Subpart B, Section 438.214, and Section 455.436;](#)

[County of Los Angeles Code of Ordinances Chapter 2.202;](#)

[DMH Legal Entity Agreement;](#)

[DMH Policy 106.08, Graded Sanctions;](#)

[Public Law 101-410, Federal Civil Penalties Inflation Adjustment Act of 1990 Section 3\(2\);](#)

[Social Security Act Sections 1128 and 1128A;](#)

[United States Code Title 42 Sections 1320a-7 and 1320a-7\(b\)\(8\);](#)

[United States Department of Health and Human Services Office of Inspector General Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Programs, May 8, 2013;](#)

VI. ATTACHMENTS

[Attestation Regarding Federally Funded Programs \(for Mental Health Contractors\);](#)

[Contractor Attestation that It nor any of Its Staff Members Is Restricted, Excluded, or Suspended from Providing Goods or Services under any federal or State Health Care Program \(for Non-Master Agreement Vendors and Suppliers\);](#)

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[Federal, State, and County Sanction Lists;](#)
[Suspension and/or Exclusion Notification Form;](#)

VII. EFFECTIVE DATES

This policy was effective January 15, 2006.

Review Dates: March 8, 2012 Reviewed with Revisions
April 30, 2019 Reviewed with Revisions

VIII. SIGNATURE, TITLE, and DATE OF APPROVAL

Required for initial approvals and all subsequent reviews and updates.


Name/Title


Date