



Ineligible Persons Policy

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DocuSigned by:
Dr. Georgina Yoshioka, Interim Director
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Georgina Yoshioka, DSW, MBA, LCSW, Interim Director

Policy The Department of Behavioral Health (DBH) shall not hire, contract, or utilize the services of any individual or entity identified as excluded or ineligible from participation in federal or state funded health care programs [in accordance with Executive Order 12549; Social Security Act, 42 U.S. Code, Section 1128 and 1320 a-7; Title 42 Code of Federal Regulations (CFR), Parts 1001 and 1002; Welfare and Institutions Code, Section 14043.6 and 14123]. DBH shall refrain from conducting business or cease to conduct business with contractors, vendors, workforce members, interns and volunteers who become ineligible, are identified as ineligible, or have pending criminal charges preventing them from participating in federal or state funded health care programs.

- Purpose**
- To ensure DBH employees, contractors (and contractor employees/interns/volunteers), vendors, interns, and/or volunteers providing health care services, including administrative and management activities that are necessary components of rendering services to federal or state program beneficiaries, are eligible for participation in federal or state funded health care programs;
 - To require sanction screenings conducted prior to hire and monthly thereafter;
 - To ensure DBH does not certify any contract agency as service provider if the agency is ineligible or excluded; and
 - To require DBH refrain from paying any ineligible or excluded individual or organizational provider.

Definition(s) **Federal and State Funded Health Care Programs:** Medicare, Medicaid and all other plans/programs that provide health benefits funded directly or indirectly by the United States government or state health care plan (other than Federal Employees Health Benefit Program).

- Ineligible Entity or Person:** An entity or individual who meets one or more of the following conditions:
- Currently excluded, suspended, debarred; or
 - Otherwise ineligible to participate in federal or state health care programs; or
 - Convicted of a criminal offense related to conduct that would or could trigger an exclusion under 42 U.S. Code 1320a-7, including criminal offenses related to the delivery of health care items or services, but has not yet been excluded, debarred, suspended or otherwise declared ineligible.

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Ineligible Persons Policy, Continued

Definition(s),
continued

Medi-Cal Suspended and Ineligible (S&I) Provider List: A list maintained and updated monthly by the Department of Health Care Services (DHCS) for individuals and entities that have been suspended from Medi-Cal or have been excluded from Medicare or Medicaid by the Office of Inspector General (OIG).

OIG List of Excluded Individuals/Entities (LEIE): A list maintained by the U.S. Department of Health and Human Services OIG, which provides information to the health care industry, patients and the public regarding individuals and entities currently excluded from participation in Medicare, Medicaid and all other federal health care programs.

Sanction Screening: The process (also known as “exclusion checks”) of searching and verifying state and federal databases to ensure individuals and entities have not been sanctioned, excluded, banned or debarred from providing certain services to a designated population or to various branches of government. Screening individuals and entities is a method to ensure compliance with state and federal requirements.

System for Award Management (SAM): The official U.S. Federal Government system that replaced the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA), which consists of current open exclusions in SAM. All firms, individuals, special entity designations and vessels that are restricted from doing business with the U.S. Federal Government are listed.

Employment
Candidates

Candidates who are considered for County employment, shall sign an Ineligible Persons Policy Acknowledgment and Attestation that they are not presently excluded from participation in federal or state funded health care programs and are not, nor have they been, the subject of an investigation by any duly authorized regulatory or enforcement agency. Failure to do so may result in reconsideration of a job offer.

Current
Employee
Requirements

Current DBH employees, interns and volunteers, and contractor employees/interns/volunteers, are required to report a change of eligibility status that affects participation in federal or state funded health care programs to their immediate supervisor within five (5) working days of such change. Employees who have pending criminal healthcare charges shall be removed from any responsibility that receives federal or state health care reimbursement or funding, directly or indirectly, until outcome determination.

Additionally, current employees, contractors, interns, and volunteers must promptly report any notification of any adverse action by any duly authorized regulatory or enforcement agency within five (5) working days of notification.

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Ineligible Persons Policy, Continued

Current Employee Requirements, continued

Failure to notify may result in disciplinary action, up to and including termination of employment.

Important Note: DBH contract agencies are contractually required to have their staff report any change of eligibility status that affects participation in federal or state funded health care programs.

Sanction Screening

In order to ensure DBH is complying with federal and state requirements for sanction screening, it must complete sanction screening by reviewing the following ineligible persons lists:

- LEIE
- Medi-Cal S&I Provider List
- SAM

DBH Human Resources, Office of Compliance, Contracts Unit, Quality Management and contract providers have a responsibility to ensure appropriate sanction screenings are conducted prior to making a job offer to any individual employee; monthly for existing DBH workforce members, contract providers, contract provider workforce members; and at certification, re-certification and every three (3) years thereafter for Fee-For-Service providers.

Note: Details of responsibility and require action are included in the Ineligible Persons Procedure (COM0933-1).

Non-Compliance

DBH is prohibited from using healthcare funds to pay an excluded individual or entity. If DBH or its contract agencies fail to comply with exclusion requirements outlined by DHCS, the following may result:

- DBH employees, contractors, workforce members, interns, and volunteers will not be considered for employment if found to be excluded and may be subject to termination if during the course of employment they become excluded or ineligible.
 - DBH and its contract agencies shall be subject to disallowance and repayment if it employs or contracts with an ineligible individual, including agency staff. If the ineligible individual is a service provider, then all services rendered while ineligible are subject to disallowance. Additionally, the salary and benefits of ineligible individuals are subject to repayment, regardless if the person is a provider or not.
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Ineligible Persons Policy, Continued

Non-Compliance, continued

- In accordance with DHCS regulations;
 - If an individual is deemed excluded/ineligible, they can no longer provide services to Medi-Cal beneficiaries or receive federal funding.
 - DBH shall not pay an ineligible provider/agency Medi-Cal funding.
 - DHCS has the authority to impose administrative sanctions on DBH, and its contract agencies who are paid with Medi-Cal funds.
 - OIG has the authority to impose civil monetary penalties against individuals and entities that violate exclusion of federal health care program payments. Civil monetary penalties are subject to up to \$10,000 for each item or service furnished by an excluded individual or entity where a claim was submitted for federal program reimbursement. The individual and/or entity may be subject to the following:
 - Assessment of up to three (3) times the amount of each claim
 - Program exclusion and denied reinstatement
 - Criminal prosecutions or civil actions in addition to the civil monetary penalties for violation of an OIG exclusion
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DBH Specific Reporting Requirements

DBH Compliance shall notify DHCS Provider Enrollment Division (PED) within two (2) business days of discovery that a contractor or provider's license, certification or approval to operate an SUD or mental health program or provide a covered service is revoked, modified or suspended outside of DHCS. DBH SUD and mental health Programs and/or Quality Management have a responsibility to notify DBH Compliance immediately upon any such discovery by their respective division, to ensure DBH Compliance notification to DHCS per requirements.

Referenced Forms, Policies, and Procedures

This information block will guide you to all forms, policies, and procedures referenced in this Procedure.

[DBH Departmental Forms and Standard Practice Manual:](#)

- Ineligible Persons Procedure (COM0933-1)
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Related Policy or Procedure

[DBH Departmental Forms and Standard Practice Manual:](#)

- Assignment, Closure, Merger or Relocation of Clinics Policy (BOP3033)
 - Closure of DBH Contract Provider Procedure (BOP3033-1)
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Ineligible Persons Policy, Continued

- Reference(s)
- California Department of Health Care Services Specialty, Mental Health Contract (Current Agreement)
 - California Department of Health Care Services. (2010). *Mental Health Letter 10-05*
 - Code of Federal Regulations, Title 42, Section 455.410-455.470
 - Code of Federal Regulations, Title 42, Sections 1001 and 1002
 - Executive Order 12549, Debarment and Suspension (1986).
 - Revenue Agreement with State of California for the Substance Use Disorder Services Drug Medi-Cal Organized Service Delivery System (Current Agreement)
 - Social Security Act, Sections 1128, 1128(a) and 1156
 - U.S. Department of Health Care Services, Medi-Cal. (2017). *Medi-Cal Suspended and Ineligible Provider List*
 - U.S. Department of Health and Human Services - Office of Inspector General. (2017). *List of Excluded Individuals/Entities*
 - U.S. 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
 - United States Code, Title 42, Section 1320a-7
 - Welfare and Institutions Code, Sections 14043.61 and 14123
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