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 Medical Center  
 References CORP-002

## Sanction Screening Policy

# I. Policy Purpose and Background

The Office of the Inspector General of the United States Department of Health and Human Services ("OIG") and the New York State Office of the Medicaid Inspector General ("OMIG") were established to identify and eliminate fraud, waste, and abuse in health care programs which receive Federal and/or State funding, and to promote efficiency and economy in the operations of these programs. OIG and OMIG carry out this mission through audits, inspections and investigations. In addition, OIG has been given the authority to exclude from participation in Medicare, Medicaid and other Federal Health Care Programs individuals and entities who have engaged in fraud or abuse, and to impose civil monetary penalties for certain misconduct related to Federal health care programs (sections 1128 and 1156 of the Social Security Act). OMIG and the New York Department of Health also have this authority with respect to health care programs which receive funding from the State of New York.

The purpose of this document is to provide for a process and procedure for screening Affected Individuals/Entities to ensure they are not "Ineligible Persons" (as defined below) for purposes of contracting, employment, and the like.

# II. Definitions

- **Affected Individuals** are individuals who are covered by ECMCC's Compliance program requirements. This includes employees, senior administrators, managers, contractors, governing body, volunteers, students and corporate officers.
- **Exclusion Lists** means Office of Inspector General (OIG) List of Excluded Individuals/Entities (LEIE), the General Services Administration Excluded Parties List System (EPLS), and the New

York State Department of Health/OMIG Exclusion List (OMIG) and, as applicable, the National Practitioner Databank (NPDB), SSA-Death Master File (DMF), Office of Foreign Asset Control Database (OFAC), and other available state exclusion lists.

- **Federal Health Care Programs** means any plan or program that provides health benefits, whether directly through insurance or otherwise, which is funded directly, in whole or in part, by the United States Government. Federal Health Care Programs include, but are not limited to, Medicare, Medicaid, managed Medicare/Medicaid, Federal Employees Health Benefit Plan and TRICARE/CHAMPUS.
- **Ineligible Person(s)** means an individual or entity (a) currently excluded, suspended, or debarred, or otherwise ineligible to participate in the Federal Health Care Programs or in federal procurement or non-procurement programs; (b) that has been convicted of a criminal offense that falls within the ambit of 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible; or (c) has been restricted, terminated or excluded under the provisions of 18 NYCRR § 504.7(b)-(h), 18 NYCRR §515.3, or 18 NYCRR §515.7. Ineligible Persons may include, but are not limited to, nurses, physicians or allied health practitioners, coders, other staff (whether employed, contracted or temporary), Board members, vendors, and applicable volunteers.
- **Screening Systems** are the systems that enable ECMCC to verify on a monthly basis individual or company exclusions or sanctions using a batch file of multiple individuals or companies that have been excluded from participating in federally funded healthcare programs, including Medicaid and Medicare.
- **State Health Care Programs** means any plan or program that provides health benefits, whether directly, through insurance or otherwise, which is funded directly, in whole or in part, by the State of New York. New York State Health Care Programs include, but are not limited to, New York Medicaid.

### III. Policy

ECMCC prohibits the employment, appointment or election of, execution of contracts with, provision of items or services at the direction or prescription of, and/or use of services provided by Ineligible Persons.

ECMCC shall ensure on a monthly basis that all Affected Individuals/Entities are screened against the applicable Exclusion Lists prior to engaging their services as part of the hiring, election, credentialing or contracting process. The National Practitioner Database ("NPDB") shall be queried upon credentialing and re-credentialing and when any changes are made to the privileges for licensed physicians or allied healthcare professionals.

ECMCC requires all Affected Individuals/Entities to disclose their status as an Ineligible Person prior to hire, election, contract or appointment, or at any time thereafter during the course of its association with ECMCC. In applicable cases, ECMCC may accept an affidavit or representations and warranties from an entity affirming that the entity has performed its own screening against the Exclusion Lists and neither the entity, nor any individuals who are Affected Individuals/Entities, are ineligible. Such affirmation or representations and warranties must include a requirement that the entity notify ECMCC of any changes in the exclusion or ineligibility status of any Affected Individuals/Entities.

## IV. Procedure

### 1. Screening of Employees, Medical Staff, Vendors

#### A. ECMCC Employees

- a. Human Resources shall screen all potential new employees against the Exclusion Lists prior to hiring. Any job offer made prior to the completion of the screening shall be contingent upon the individual not being an Ineligible Person. Any applicant found to be an Ineligible Person shall not be hired.
- b. Human Resources is responsible for carrying out their "Apply for Employment with ECMCC" and "Background Checks" policies as it relates to hiring of employees.
  - i. In addition to screening against the Exclusion Lists as described in (1)(A)(a), Human Resources shall arrange for a criminal background check to be performed by an independent contractor. New hires must also be cleared by Pre-employ.com. Information on the criminal background check will be properly reviewed under the NYS Correction Law Section 23-A.
  - ii. New employees in ECMCC's Terrace View Long Term Care Facility who are non-licensed, non-professionals are subject to an additional Criminal History Record Check through the NYS Dept. of Health. Fingerprinting for this check will be arranged by Human Resources when necessary. Additionally, all Terrace View employees, hospital employees who are stationed at Terrace View, and Terrace View contractors who have the potential to be unsupervised must be cleared through Prometric verification. NYS Central Registry Check must be run on all employees going into a position in Behavioral Health. All information will be kept in the Employee Criminal Background Check folder.
- c. After the initial screening, the Compliance Office will be provided an employee list from Human Resources and shall conduct monthly screenings of all ECMCC employees against the Exclusion Lists. Any individual found to be an Ineligible Person will be immediately removed from all activities that may, directly or indirectly, be billed to Federal Health Care Programs and/or State Health Care Programs. Documentation of the monthly screenings shall be kept by the Office of Corporate Compliance.

#### B. Medical Staff

- a. ECMCC's Credentialing Office shall screen against the Exclusion Lists and the NPDB for all individuals who apply for privileges, apply for renewal of privileges, seek an extension or modification of privileges, and/or seek to change their supervising or collaborating physician status.

- b. ECMCC's Credentialing Committee is responsible for carrying out this policy as it relates to granting privileges to medical personnel who are not employees.
- c. ECMCC's Chief Medical Officer and Medical/Dental Staff President must be promptly notified in accordance with the Credentials Procedures Manual if any sanctions are identified regarding an Affected Individual, including their professional license, drug enforcement registration, criminal or conviction proceedings and/or participation in third-party payers, Medicare or Medicaid programs in the State of New York or any other jurisdiction.

#### C. Vendors

- a. The Compliance Department monthly obtains a list of active vendors and screens them against Exclusion Lists. Additionally, the Purchasing Department utilizes a separate Screening System to verify, screen and monitor any vendor who is required to sign in through ECMCC's vendor credentialing system. This system screens both the vendor at the entity level and the individual level. If an Affected Individual/Entity is identified as being sanctioned and/or excluded, the Purchasing Department is required to notify the Finance and Compliance departments immediately. Documentation of the monthly screenings performed by Compliance shall be kept by the Compliance Department for at least ten years.
- b. Any vendor Affected Individual/Entity found to be an Ineligible Person shall be immediately removed from all activities that may, directly or indirectly, be billed to Federal Health Care Programs and/or State Health Care Programs unless immediate removal would result in patient harm. The vendor contract may also be terminated pursuant to its contractual provisions.

#### 2. Compliance Exclusion Screening Process

- A. The Compliance Department shall screen all employees and members of its Board of Directors, as well as contractors, consultants, vendors, joint venture parties and affiliates with which it has a business relationship utilizing its Screening System. The Screening System searches Federal and State databases simultaneously, performs monthly testing for exclusions, allows for the recording of the action taken on the matches found, and retains the history of the match resolution for the use in any Federal, State or third party payer audits.
  - a. The Screening System then screens the file records against the respective databases to be searched. The Screening System works through all identified data issues with the exclusion data files. Potential Ineligible Persons that the Screening System cannot clear are referred back to Compliance, which in turn researches and works with the Screening System to "clear" or "fail" the Affected Individual/Entity.
- B. If it is determined upon reasonable due diligence that an Affected Individual/Entity is an Ineligible Person, the relationship shall be immediately terminated. Also, ECMCC

shall follow the guidance offered by CMS and/or NYSDOH on appropriate handling of the items and/or services related to the excluded/sanction Affected Individual/ Entity.

- C. Prospective employees and vendors who have been officially reinstated into the Medicare and Medicaid programs by OIG may be considered for employment, medical privileges or a contractual relationship upon proof of such reinstatement and a determination that there are no other impediments to such action.
  - D. Whenever ECMCC has actual notice that an Affected Individual/Entity has become an Ineligible Person, ECMCC will remove such Affected Individual/Entity from responsibility for, or involvement in, the business operations related to any Federal Health Care Programs and/or State Health Care Programs or provision of items or services, directly or indirectly, to Federal and/or State health care program beneficiaries and shall remove (i.e., removal may include termination of employment) such Ineligible Person from any position for which the Ineligible Person's compensation, or the items or services furnished, ordered, or prescribed by the Ineligible Person, are paid in whole or part, directly or indirectly, by a Federal Health Care Programs and/or State Health Care Programs.
  - E. The Compliance Department is responsible for monitoring this Policy for compliance and reporting results quarterly to the Board Audit Compliance Committee, along with any recommendations for remedial actions or improvement to the program.
3. Corrective Action and Repayment of Ineligible Persons' Items and Services
1. Departments and/or entities for which the Ineligible Person has provided any services shall inform the Corporate Compliance Officer or his/her designee of the details of any potential compliance issues associated with the Ineligible Person. The Corporate Compliance Officer or his/her designee shall develop a corrective action plan.
  2. The Corporate Compliance Officer or his/her designee shall develop a corrective action plan. Where applicable, the Office of Corporate Compliance will notify Revenue Cycle or the related entity regarding the Ineligible Person. Revenue Cycle or the related entity shall determine whether any services provided by the Ineligible Person had been billed to any Federal or State-funded health care programs since the date of the exclusion of the Ineligible Person and/or whether the Ineligible Person impacted ECMCC's cost reporting obligations. If Revenue Cycle determines that any payments for items or services rendered by the Ineligible Person have been received from any Federal and/or State-funded health care programs since the date of exclusion, the payment(s) shall be refunded to the payer. Bills that have not yet been submitted for such items or services shall not be submitted for payment. Cost reports shall be adjusted as necessary by Finance.

## Reference:

- Medical-Dental Staff Bylaws Credentials Procedures Manual
- 42 U.S.C. §1320a-7(a) (Mandates exclusion for conviction of health care program related crimes, conviction relating to patient abuse or neglect, felony conviction relating to health care

- fraud, or felony conviction relating to controlled substances.)
- 42 U.S.C. §§ 1320a-7(b)(1)-(3) (Permits exclusion for misdemeanor conviction relating to health care fraud, conviction relating to fraud in non-health care programs, conviction relating to obstruction of an investigation, or misdemeanor conviction relating to controlled substances.)
- OIG Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Programs, 64 FR at 52,791 (September 30, 1999)
- OIG Compliance Program Guidance for Hospitals, 63 FR at 8,987 (February 23, 1998)
- OIG Supplemental Compliance Guidance for Hospitals, 70 FR 4858, at 4,876 (January 31, 2005)
- OIG Updated Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Program (May 9, 2013)
- OMIG Compliance Program Required Provider Duties, 18 NYCRR §521.3(a).
- 18 NYCRR § 504.7(b) - (h), 18 NYCRR §515.3, or 18 NYCRR §515.7 (Permits restrictions, terminations or exclusions of individuals or entities from participation in the Medicaid program).
- HR Policies: Background Checks and Apply for Employment with ECMCC

ECMCC has developed these policies and procedures in conjunction with administrative and clinical departments. These documents were designed to aid the qualified health care team in making clinical decisions about patient care. These policies and procedures should not be construed as dictating exclusive courses of treatment and/or procedures. No health care team member should view these documents and their bibliographic references as a final authority on patient care. Variations from these policies and procedures may be warranted in actual practice based upon individual patient characteristics and clinical judgment in unique care circumstances.

## Approval Signatures

Step Description	Approver	Date
	Lindy Nesbitt: Assistant VP Compliance & Senior Counsel	Pending

## Applicability

Erie County Medical Center