| POLICY # COMP-DMG-014 | Revision: 4.0 | Page 1 of 4 |
|---|---|---|
| TITLE: Excluded Individual and Screening Policy | | |
| Department: Compliance | Effective date: April 2015 | |

*Teammates must promptly report all potential violations of the Code of Conduct, DaVita Medical Group policies and procedures and/or applicable laws or regulations. Reports should be made to the Compliance department, or the Compliance Hotline, 1-855-236-1448 or www.healthcarepartners.ethicspoint.com. In accordance with DaVita Medical Group's Non-Retaliation for Reported Compliance Violations Policy, DaVita Medical Group will not tolerate any form of retaliation against anyone who files a compliance report in good faith. Questions regarding any compliance policy may be directed to the Compliance department.*

## 1. PURPOSE AND SCOPE

To document DaVita Medical Group's policy against the employment of, contracting with, any individual or entity, or credentialing any healthcare provider that is ineligible to participate in federal and state funded health care programs in compliance with the Social Security Act, applicable state law requirements and federal contracts. This policy applies to DaVita Medical Group, including HealthCare Partners, WellHealth Medical Group, Magan Medical Clinic, The Everett Clinic, Northwest Physicians Network, and Mountain View Medical Group (collectively "DMG").

## 2. DEFINITIONS

| Term | Definition |
|---|---|
| Exclusion Lists | a. Office of Inspector General (OIG) List of Excluded Individuals/Entities (LEIE) currently available on the website at https://exclusions.oig.hhs.gov;<br>b. The GSA (General Services Administration) System Awards Management (SAM) list at https://www.sam.gov;<br>• Centers for Medicare & Medicaid (CMS) Preclusion List provided by individual health plans<br>c. Any applicable state healthcare exclusion, terminated, or sanctioned list (or any other list that lists providers who are ineligible to participate in the state Medicaid program) publicly available and searchable online. |
| Exclusion Screening | A process in which all Screened Persons are checked against the Exclusion Lists through use of a background check vendor. |
| Federal Exclusion Statute | 42 U.S.C. § 1320a-7(a) mandates exclusion for conviction of (i) any criminal offense related to the provisions of healthcare under Medicare or Medicaid; (ii) any criminal offense related to patient abuse or neglect; (iii) a felony offense related to manufacture, distribution, prescription or dispensing of a controlled substance; or (iv) a felony offense related to fraud, theft or financial misconduct in connection with the provision of healthcare or in connection with any governmental healthcare program other than Medicare or Medicaid.<br>42 U.S.C. §§ 1320a-7(b)(1)-(3) – permits exclusion for misdemeanor conviction relating to healthcare fraud, conviction relating to fraud in non-healthcare programs, conviction relation to obstruction of an investigation, or misdemeanor conviction relating to controlled substances. |

| Term | Definition |
|---|---|
| | Conviction includes a guilty plea accepted by the courts. |
| Ineligible Person | Any individual or entity:<br>a. Currently excluded, suspended, debarred, precluded, terminated for cause or otherwise ineligible to participate in federally funded healthcare programs, in federal procurement or non-procurement programs or any state funded program; or<br><br>b. Who has been convicted of a criminal offense that falls within the ambit of the Federal Exclusion Statute but has not yet been excluded, debarred, suspended, or otherwise declared ineligible. |
| Opt-Out Provider | A physician or practitioner who has been reported in an Exclusion List as having voluntarily “opted out” of the Medicare program. |
| Screened Person | Actively employed and contracted officers, directors, teammates, vendors, and credentialed healthcare providers. |

## 3. POLICY

**3.1.** DMG will not knowingly:

**3.1.1.** Hire, retain, credential, contract with, or otherwise pay for services with (except as provided by law) individuals or entities identified as debarred or excluded from participation in Medicare, Medicaid, and any other federal and state healthcare programs identified on any Exclusion Lists;

**3.1.2.** Submit any claims to any federal or state healthcare programs for any services provided, ordered or referred by any Ineligible Person; and

**3.1.3.** Knowingly retain payment for any federal or state health care program for any services provided, ordered or referred by any Ineligible Person.

**3.2.** DMG requires that all Screened Persons be processed through DMG’s Exclusions Screening against the Exclusion Lists prior to engaging their services as part of the hiring, credentialing or contracting process and monthly thereafter.

**3.3.** DMG requires that all Screened Persons notify DMG at the time of the initial hiring, credentialing, or contracting process, or immediately at any point in the future when he or she has:

**3.3.1.** Pending charges against them related to healthcare, including but not limited to any conviction under the Federal Exclusion Statute;

**3.3.2.** Been convicted of a criminal offense related to healthcare, including but not limited to any conviction under the Federal Exclusion Statute;

**3.3.3.** Received notice that the government proposes to exclude him/her from participation in any federal or state health care program including, but not limited to the Centers for Medicare & Medicaid Services Preclusion List (“A list of providers and prescribers who are precluded from receiving payment for Medicare Advantage (MA) items and services or Part D drugs furnished or prescribed to Medicare beneficiaries”);

**3.3.4.** Become an Ineligible Person; or

**3.3.5.** Submitted an affidavit to Medicare expressing the desire to opt-out of Medicare.

**3.4.** If DMG determines that a Screened Person is an Ineligible Person, or otherwise receives notice from a state or federal governmental entity that a Screened Person is under



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investigation of a credible allegation of fraud, the appropriate parties will be notified to take corrective action. (See section 4.1 below).

**3.5.** Any Screened Person that appears on an Exclusion List as a "name match" who cannot be confirmed as an Ineligible Person will complete the *Sanctioned Screening Questionnaire Attestation Form* within the deadlines outlined in section 4.3.

**3.6.** DMG will review any Screened Person that appears on an Exclusion List as an "Opt-out Provider" on a case by case basis to determine if corrective action is necessary.

**3.7.** Exclusion screening documentation will be maintained by DMG for a period of ten (10) years.

## 4. PROCEDURE

**4.1.** Notification to others of Ineligible Person status:

**4.1.1.** When DMG identifies that a Screened Person is an Ineligible Person, the Compliance department will coordinate with the appropriate teams to implement the following corrective action steps:

- Take immediate action to remove the Ineligible Person from responsibility for, or involvement in, federal health care business work;
- Terminate employment, contract or credentials by working with the appropriate departments:
    - Notify the Credentialing department when a healthcare provider has been determined to be an Ineligible Person;
    - Notify teammate's supervisor and People Services of any Ineligible Person in order to terminate the teammate or contracted teammate in accordance with state regulations; and
    - Notify Accounts Payable of any Ineligible Person so all payments can be placed on hold and send notification of the immediate discontinue use of Ineligible Person's services.
- Calculate and prepare repayment for amounts received from federal or state healthcare program(s) for services furnished by an Ineligible Person when applicable.
- Ineligible Persons may be eligible for re-hire, credentialing, or contracting upon receipt of satisfactory reinstatement documentation from the government departments that manage the Exclusions Lists.

**4.2.** Opt-out Providers

**4.2.1.** When DMG identifies that a Screened Person is an Opt-out Provider, the Compliance department will coordinate with the appropriate teams to implement:

- A review of the contract to determine whether services are limited to commercial/self-insured patients; and if so:
    - Confirmation that the Opt-out provider maintains a private contract with his/her patient(s) that neither can receive payment from Medicare for the services performed.
    - No claims submitted by DMG on behalf of the provider are billed to Medicare/Medicaid.
- The procedure under 4.1 for any Opt-out Providers who provide services, or are in a network that provides services, to Medicare/Medicaid patients.

**4.3.** Exclusion Screening Questionnaire Attestation process:


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**4.3.1.** Screened Persons whose Exclusion Screening outcome has been reported as a possible Ineligible Person by a name match only, and there is no ability to clear the Screened Person with a unique identifier (e.g. social security number, date of the birth or Tax Identification Number (TIN)), will be required to do the following:

- Complete the Exclusion Screening Questionnaire Attestation form and return the attestation to Compliance department within ten (10) business days to attest whether or not they are excluded.

**4.3.2.** Failure to return the attestation form within the required time frame may result in the suspension or termination of employment, contract, payment and credentials.

**4.4.** Screening against the CMS Preclusion List will be based on procedures established in each region relevant to their health plans.

## 5. APPLICABLE DOCUMENTS

**5.1.** Sanctioned Screening Questionnaire Attestation Form



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## 6. REVISION HISTORY

| REVISION HISTORY | | | |
|---|---|---|---|
| **Doc. Revision** | **Description** | **Revision Date** | **Last Date Reviewed** |
| 1.0 | Policy Creation | April 2015 | April 2015 |
| 2.0 | Rebranding and formatting | Dec 2017 | Dec 2017 |
| 3.0 | Clarifying statements and definitions, Opt-Out Provider procedure, CMS preclusion | Nov. 2018 | Nov. 2018 |
| 4.0 | Updated to include Preclusions guidance | Feb. 2019 | Feb. 2019 |
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