

**VAN BUREN COMMUNITY MENTAL HEALTH AUTHORITY
POLICIES & PROCEDURES**

Title: Federal Program Eligibility Screening
and Exclusion Disclosure
Originated: 06/16/09

Number: I.02
Approved By: Executive Team

DIRECTIVE:

Section 438.610 of the Code of Federal Regulations (42 CFR §438.610) prohibits PIHPs from knowingly having a relationship with an individual who is debarred, suspended or otherwise excluded from participation in any federal health care program or with anyone who is an affiliate of such individual. A PIHP may not have as a director, officer, partner, or person with a beneficial ownership of 5% or more of the PIHP or have an employment, consulting or other agreement with an individual or entity that provides items or services that are significant and material to the PIHP's obligations under the FY2009 Agreement between the Michigan Department of Community Health and Michigan Prepaid Inpatient Plans for Medicaid Specialty Services (the "Medicaid Agreement") who is debarred, suspended, or excluded from any health care program, including the Medicaid program.

Section 438.610 further requires that all PIHP directors, officers, employees, contractors and subcontractors be screened to determine whether they have been listed by a federal agency as debarred, excluded, or otherwise ineligible for participation in a federal health care program, such as Medicaid.

Exclusion from participation means that no federally funded program payment may be made for any items or services (1) furnished by an excluded individual or entity, or (2) directed or prescribed by an excluded individual or entity. This payment prohibition applies to all methods of Federal program reimbursement, whether payment results from itemized claims, cost reports, fee schedules or a prospective payment system. The payment prohibition applies regardless of who submits the claim and regardless of when the Federal payment itself is made to another provider, practitioner or supplier that is not excluded, such as CMHSP for mental health services prescribed or provided by an excluded clinician.

The prohibition against Federally Funded Health Care Program Payment for items or services furnished by excluded individuals or entities also extends to payment for administrative and management services not directly related to consumer care, but that are a necessary component of providing items and services to Federal program beneficiaries. For example, this would include payment of the salary for a billing employee who had been excluded.

An excluded individual or entity violates that law if it provides items or services to Federally Funded Health Care Program beneficiaries and a Federal payment is sought for those items or services. Furthermore, no payment can be made from a Federally Funded Health Care Program payment to cover an excluded individual's salary, expenses or fringe benefits, regardless of whether they provide direct patient care.

DEFINITIONS:

- A.** "Screened Person" means all officers, directors, or any person with a Direct or Indirect Ownership interest of 5% or more of VBCMH's equity. In addition, "Screened Persons"

are VBCMh provider entities within VBCMh's provider network, any individuals with Direct or Indirect Ownership of 5% or more of a provider entity's equity, and any managing employee of VBCMh or provider entity. Furthermore, a "Screened Person" is an Immediate Family Member of or a Member of a person's Household to whom a transfer of ownership or control interest in VBCMh or a provider entity has been made in anticipation of or following a conviction, assessment of a CMP, or imposition of an exclusion. Finally, a Screened Person is any person or entity under contract with VBCMh or a provider entity related to purchase orders, leases to obtain space, supplies, equipment or services provided under the Medicaid Agreement totaling more than \$25,000 during a 12-month period. (42 CFR §1001.1001, 42 CFR §438.610, 42 CFR §455.106, MDCH PIHP 2009 Contract Section 5.3(a))

- B. "Immediate Family Member" means a person's husband or wife; natural or adoptive parent; child or sibling; stepparent, stepchild, stepbrother or stepsister; father-, mother-, daughter-, son-, brother- or sister-in-law; grandparent or grandchild; or spouse of a grandparent or grandchild. (42 CFR §1001.1001)
- C. "Member of Household" means with respect to a person, any individual with whom they are sharing a common abode as part of a single family unit, including domestic employees and others who live together as a family unit. A roomer or boarder is not considered a member of household. (42 CFR §1001.1001)
- D. "Ownership Interest" means an interest in the capital, stock or the profits of the entity; or any mortgage, deed, trust or note, or other obligation secured in whole or in part by the property or assets of the entity. (42 CFR §1001.1001)
- E. "Indirect Ownership Interest" includes an ownership interest through any other entities that ultimately have an ownership interest in the entity in issue. For example, an individual has a 10% ownership interest in the entity at issue if he or she has a 20% ownership interest in a corporation that wholly owns a subsidiary that is a 50% owner of the entity in issue. (42 CFR §1001.1001)
- F. "Managing Employee of a Provider Entity" is an individual (including a general manager, business manager, administrator or director) who exercises operational or managerial control over the entity or part thereof, or directly or indirectly conducts the day-to-day operations of the entity or part thereof. (42 CFR §1001.1001)
- G. "Excluded Individuals" are individuals or entities that have been excluded from participating, but not reinstated, in Medicare, Medicaid, or any other Federal health care programs. Bases for exclusion include convictions for program-related fraud and patient abuse, licensing board actions, and default on Health Education Assistance loans. (PIHP Contract Section 5.3(a) Program Integrity)
- H. "Federally Funded 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 or a State health care program (with the exception of the Federal Employees Health Benefits Program) (section 1128B(f) of the Act). The most significant Federal health care programs are Medicare, Medicaid, Tricare and the Veterans programs. (OIG Special Advisory Bulletin September 1999).
- I. "Exclusion List" means OIG List of Excluded Individuals/Entities (LEIE) and the General Services Administration (GSA) Excluded Parties List System (EPLS).

PROCEDURES:

VBCMh shall comply with Federal regulations to obtain, maintain, disclose, and furnish required information about ownership and control interests, business transactions, and criminal convictions as specified in Sections 455.104-106 of the Code of Federal Regulations (42 CFR

§455.104-106). In addition, VBCMh shall ensure that any and all contracts, agreements, purchase orders, or leases to obtain space, supplies, equipment or services provided under the Medicaid Agreement require compliance with these regulations.

VBCMh prohibits the employment of, execution of contracts with, provision of items or services at the direction or prescription of, or use of services provided by Excluded Individuals at its operations or any subcontractors.

VBCMh shall check or cause to have checked the “Excluded Database” at <http://www.oig.hhs.gov> and the “Excluded Parties Listing System” at <http://www.epls.gov> before offering employment or a contract for services. A copy of the search results indicating “no results found” shall be placed in the personnel record or contract file. VBCMh will search or cause to have searched the Exclusion Lists at least monthly to capture exclusions and reinstatements that have occurred since the last search, or at any time providers submit new disclosure information.

VBCMh shall require all Screened Persons to disclose whether they are Excluded Individuals. All Screened Persons shall disclose if he/she/it is an Excluded Individual at the time of the initial hiring, credentialing, or contracting process, or at any point in the future upon request by VBCMh.

If VBCMh has actual notice that an employed or contracted Screened Person has become an Excluded Individual, VBCMh will remove (e.g., through termination of employment or the contract with the Excluded Individual) such Screened Person from responsibility for, or involvement in, the business operations related to any Federally Funded Health Care Programs or provision of items or services, directly, or indirectly, to Federally Funded Health Care Program beneficiaries and shall remove such persons from any position for which the Excluded Individual’s compensation or the items or services furnished, ordered, or prescribed by the Excluded Individual, are paid in whole or part, directly or indirectly, by Federally Funded Health Care Programs or otherwise with Federal funds. Furthermore, VBCMh will attest to Venture that the Excluded Individual has been removed from ownership and control functions and that any cost and expense related to the employment of the Excluded Individual is not submitted to Venture under its PIHP subcontract cost settlement process. Finally, VBCMh will immediately notify the Venture Provider Network Manager of the Excluded Individual’s status.

If VBCMh has actual notice that an employed or contracted Screened Person of a provider entity has become an Excluded Individual, VBCMh will require that the provider entity remove (e.g., through termination of employment or the contract with the Excluded Individual) such Screened Person from responsibility for, or involvement in, the business operations related to any Federally Funded Health Care Programs or provision of items or services, directly, or indirectly, to Federally Funded Health Care Program beneficiaries and shall remove such persons from any position for which the Excluded Individual’s compensation or the items or services furnished, ordered, or prescribed by the Excluded Individual, are paid in whole or part, directly or indirectly, by Federally Funded Health Care Programs or otherwise with Federal funds. Furthermore, VBCMh will ensure Venture that the provider entity attests that the Excluded Individual has been removed from ownership and control functions and that any cost and expense related to the employment of the Excluded Individual is not submitted to Venture under its PIHP subcontract cost settlement process. Finally, VBCMh will immediately notify the Venture Provider Network Manager of the Excluded Individual’s status.

VBCMh shall require any out of network provider entities who seek payment from VBCMh for services provided to VBCMh consumers to sign a contract that contains a "Certification Regarding Debarment, Suspension, and Other Responsibility Matters" statement to affirm that they, their employees and their contractors are not excluded from participation.

Prospective employees, contractors and subcontractors listed by a Federal agency as debarred, excluded or otherwise ineligible for Federal program participation are not eligible for employment or contracts with VBCMh, nor payment directly or indirectly using Medicaid funds.

All subcontracts shall require that the same conditions regarding "debarment, suspension and other responsibility matters" set forth in this Policy are included in the subcontract.

VBCMh will notify the Division of Program Development, Consultation and Contracts, Mental Health and Substance Abuse Administration in MDCH immediately if search results indicate that any of their network's provider entities, or individuals or entities with ownership or control interests in a provider entity is on the OIG exclusions database.

VBCMh shall ensure the Exclusion Lists are checked at least monthly for all its operational staff and contractors, the Screened Persons within VBCMh and within their contracted provider entities, and all centrally credentialed providers.

In order to facilitate the process of checking the Exclusion Lists for all Screened Persons, VBCMh will submit the following information to Venture annually at the time of contract renewal. In addition, VBCMh shall submit the same information to Venture upon hiring or contracting any Screened Persons throughout the year. The information to be provided includes:

- The first, middle and last name for all Screened Persons;
- Any assumed names currently or previously used by any Screened Persons; and
- Any alias currently or previously used by any Screened Persons.

In order to facilitate the process of checking the Exclusion Lists for all Screened Persons, all contracted provider entities will submit to VBCMh the following information at the time a contract is executed or annually upon contract renewal. In addition, all contracted provider entities shall submit the same information to VBCMh upon hiring or contracting any Screened Persons throughout the year. Failure to submit the following information to VBCMh as specified in this policy or as requested may result in penalties as specified in the provider subcontract. The information to be provided includes:

- The first, middle and last name for all Screened Persons;
- Any assumed names currently or previously used by any Screened Persons; and
- Any alias currently or previously used by any Screened Persons.

If at any time a match is made based upon a Screened Person's name, the following additional information will be sought by VBCMh in order to confirm the initial match:

- The Screened Person's Social Security Number; and
- The Screened Person's date of birth

1) The following will be taken for all **NEW** Screened Persons:

- a) Screen the individual, contractor or subcontractor prior to the offer of employment as described in the Procedure section, 2(a).
- b) Confirm any match as described in Procedure section 2(c) and document.
- c) No offer of employment will be made to an individual, contractor or subcontractor that is found to be on the OIG or EPLS lists.

2) The following steps will be taken for all **CURRENT** Screened Persons:

a) Screening

All Screened Persons must be screened initially and then each month by placing their full name, including any aliases previously used, into the following databases or by calling the following contact numbers:

- I. <http://exclusions.oig.hhs.gov>
- II. <http://www.epls.gov>
- III. 1 (866) GSA – EPLS
- IV. 1 (202) 619 – 1343

b) Documentation

VBCMh or its designee will maintain a historical database/file on all Screened Persons checked. The database/files will include, at a minimum:

- I. The name of the Screened Person;
- II. Each date the Screened Person was checked initially and monthly; and
- III. The results of each check

c) Confirmation

If a match is made based on the Screened Persons name, confirm the information and match by completing the following steps:

Note: The employee's name, social security number, and date of birth are necessary for confirming a match.

- I. Confirm the Screened Person's full name, including middle name;
- II. Obtain the Screened Person's Social Security Number;
- III. Obtain the Screened Person's date of birth (for telephone verification);
- IV. Log onto the EPLS and OIG websites;
- V. Input the employee name;
- VI. Click on the name;
- VII. Enter the employee's Social Security Number for verification;
- VIII. Print verification;
- IX. For further information, you may contact the OIG and EPLS service centers at the numbers listed in the Procedure section 1.

d) Processing An Excluded Individual

- I. Alert the following:
 - i. VBCMh Compliance Officer;
 - ii. Venture Provider Network Manager;
 - iii. Venture Chief Compliance Officer

- II. Removal
Immediately remove the employee from participating in any Federally Funded Health Care Programs.

RESOURCES

42 CFR §438.610

42 CFR §1001.1001

42 CFR §455.104

42 CFR §455.105

42 CFR §455.106

State Medicaid Director 6/12/2008

OIG Special Advisory Bulletin September 1999

MDCH PIHP 2008 Contract Section 5.3(a)