

United States Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

In the Case of: _____)
)
) Date: _____)
)
Petitioner, _____)
)
)
 - v. - _____) Docket No. C- _____)
)
The Inspector General. _____)
)
)

INFORMAL BRIEF OF INSPECTOR GENERAL

The Inspector General (I.G.) determined to exclude Petitioner, _____, from participating in Medicare, Medicaid, and other federally-funded health care programs. The statutory basis given for the exclusion is section(s) _____ of the Social Security Act (Act). The duration of the exclusion is for at least _____ years, or, in the case of an exclusion imposed pursuant to sections 1128(b)(4), 1128(b)(5), or 1128(b)(14) of the Act, until _____.

The issues in this case are whether:

1. The I.G. has the authority to exclude Petitioner; and
2. The length of the exclusion is reasonable, in the case of any exclusion that is not for a minimum mandatory period.

I. Authority for the exclusion. Describe each fact that supports the I.G.'s determination that Petitioner may or must be excluded pursuant to section(s) of the Act and explain why these facts support your argument that an exclusion is authorized or mandated.

In doing so, cite to each exhibit that supports your statement of facts and explain why it does.

II. Whether the length of the exclusion is reasonable.

A. Is the exclusion for a minimum mandatory period of five years (applicable only in cases where the exclusion is imposed pursuant to section 1128(a) of the Act)?

_____ Yes _____ No

Is it for a minimum mandatory period of three years (applicable only in cases where the exclusion is imposed pursuant to section 1128(b) of the Act)?

_____ Yes _____ No

B. If the exclusion is for other than a minimum mandatory period, state each regulatory aggravating factor that you contend is present in the case. Cite the relevant regulatory section that states each aggravating factor that you contend is present. Describe the facts that support the presence of each aggravating factor or factors. Cite to each exhibit that supports your contentions and explain why it does.

C. If there are mitigating factors present in this case, state each mitigating factor that you contend is present. Cite the relevant regulatory section that states each mitigating factor that you contend is present. Describe the facts that support the presence of each mitigating factor or factors. Cite to each exhibit that supports your contentions and explain why it does.

D. Explain why the facts that relate to the aggravating and, if any, mitigating factors that you contend are present support a finding that the length of the exclusion is reasonable.

III. Do you believe that an in-person hearing is necessary to decide your case?

____ Yes ____ No

Do you have any testimony that you wish to offer at an in-person hearing?

____ Yes ____ No

If you have testimony that you wish to offer, provide the following:

1. The name of each witness whose testimony you want to offer.
2. A description of each witness' proposed testimony and an explanation of why you believe that the testimony relates to any of the arguments you want to offer in connection with items I, II, and III.
3. An explanation of why the proposed testimony does not duplicate something that is already stated in an exhibit.

IV. Do you have any other arguments you wish to make?

____ Yes ____ No

If so, please state them here. State which exhibits support your argument(s) and explain why they do.

Counsel for the I.G.

Date: _____