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### Two Hospitals Pay \$371,000 In CMP Settlement Over One Excluded Person

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By Nina Youngstrom

Two Tenet Healthcare Corp. hospitals in California agreed to pay \$371,000 in a civil monetary penalty settlement over the employment of the same excluded person.

According to the settlement, which was obtained through the Freedom of Information Act (FOIA), the HHS Office of Inspector General (OIG) alleged that John F. Kennedy Memorial Hospital employed an excluded individual from June 20, 2017, to July 15, 2018, for the provision of items or services that were reimbursed by a federal health care program. Emanuel Medical Center did the same thing from July 16, 2018, to March 20, 2019. The hospitals employed the same excluded person, but the settlement didn't identify the person or job title and a spokesperson declined to elaborate.

"We identified that an employee had been excluded from federal healthcare programs unrelated to work at two of our hospitals. We resolved this matter by self-disclosing it to the OIG," John F. Kennedy Memorial Hospital said in a statement.

The hospitals were accepted to OIG's Self-Disclosure Protocol in February 2020. Of the settlement amount, \$295,148 is restitution. The hospitals didn't admit liability in the settlement.

Screening for excluded employees, physicians and vendors continues to be a challenge for health care organizations, although they may have an easier time sometime soon because OIG plans to modernize its List of Excluded Individuals/Entities (LEIE). Principal Deputy Inspector General Christi Grimm said OIG plans to update the machinery of exclusion screening, which is designed to identify people and entities that are prohibited from billing federal health care programs. The LEIE, which is visited 26 million times annually, often requires a manual process, and "we are considering how best to adopt modern data-sharing practices for the LEIE, such as application programming interfaces, also known as APIs," Grimm said April 19 at the Health Care Compliance Association's Compliance Institute.<sup>[1]</sup> "Modernized LEIE information will mean that data are easier to access through compliance software and apps that use APIs and can support the development of new tools and approaches to compliance."

### **SAM.gov Has Been 'Relaunched'**

OIG is using more data analytics to identify excluded people who are providing services that are reimbursed, directly or indirectly, by federal health care programs, said Michael Rosen, founder of ProviderTrust. When the exclusions come to an end and the person applies to OIG for reinstatement to Medicare and other federal health care programs, OIG researches their employment during the exclusion to determine if they have been working in the health care arena. "In the past, it was more reactive," with OIG more likely to learn about a health care organization billing for an excluded person when it self-disclosed, he said.

There have been two significant changes recently with respect to exclusions, Rosen said. The System for Award Management ([SAM.gov](https://www.sam.gov)), a federal government debarment and sanctioning database, was recently relaunched,

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“which caused a lot of confusion,” he said. Organizations use [SAM.gov](https://sam.gov) to check for people and entities that have been debarred, suspended or excluded from participation in federal programs. “People need to be aware it will look very different and will be searched very differently,” Rosen explained.

The other change is the greater focus on telehealth providers. Many of them work across state lines, treating patients in states where they aren’t licensed, Rosen said. “Licensing boards are inundated with claims or investigations of people who acted across state lines without a license,” he said, although in some states this requirement was waived during the COVID-19 public health emergency (PHE) and Medicare waived it for payment purposes. Also, many states issued emergency regulations during the PHE, giving providers an extra six months for license renewal. “Most states are going back to a two-year license renewal,” Rosen said.

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<sup>1</sup> Nina Youngstrom, “OIG Plans to Modernize LEIE, Prioritize Equity; DOJ Won’t Pursue Small PRF Mistakes,” *Report on Medicare Compliance* 30, no. 16 (April 26, 2021), <https://bit.ly/2UzTcPI>.

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