

MDS Alert

Compliance: Fail To Check This List At Your Own Facility's Risk

If you're not doing this as part of every background check and periodically, watch out.

It's not enough to stay off the HHS **Office of Inspector General's** excluded list. Nursing homes and other healthcare providers that participate in federal payer programs, including Medicare and Medicaid, can't employ or contract with anyone on that list.

The compliance reality: Healthcare entities that hire or contract with individuals or entities on the OIG exclude list are "absolutely" subject to civil monetary penalties, emphasizes **William Mathias**, an attorney with **Ober/Kaler** in Baltimore. In fact, he's seeing more providers making voluntary disclosures to the OIG when they accidentally employed or contracted with an excluded individual. It pays to self-disclose, he says, "because the sanctions are a lot less severe than if the government discovers [the problem] on its own."

Think your facility's in the clear? Don't be too sure. A person can end up on the OIG-excluded list more easily than people may think. For example, the OIG has discretionary authority to exclude someone for defaulting on health education assistance loans or in the case of disciplinary actions by licensing boards.

Also, some healthcare providers may apply for a job believing that they are no longer on the excluded list. Mathias has had some clients who didn't realize that they had to apply to the OIG to remove their names once they completed their period of exclusion from participating in federal healthcare programs.

The good news: You can easily check to see if a person is on the excluded list, says Mathias. Go to the OIG Web site at <http://exclusions.oig.hhs.gov>. Key in the person's name. If it's a common name, like John Smith, you will have the chance to confirm the person's identity by entering a Social Security number, he adds. "The name will pop up if it is on the list," Mathias says.