



<b>POLICY/GUIDELINE TITLE:</b> Screening of Federal and State Exclusion Lists	<b>ADMINISTRATIVE POLICY AND PROCEDURE MANUAL</b>
<b>POLICY #:</b> 800.05	<b>CATEGORY:</b> Compliance and Ethics
<b>System Approval Date:</b> 11/30/17	<b>Effective Date:</b> 09/09
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<b>Prepared by:</b>  Office of Corporate Compliance	<b>Notations:</b> N/A

**GENERAL STATEMENT of PURPOSE**

The purpose of this policy is to ensure that all Screened Persons are not Ineligible Persons, as defined by the Office of the Inspector General of the United States Department of Health and Human Services (OIG) and the New York State Office of the Medicaid Inspector General (OMIG).

The OIG and OMIG were established to identify and eliminate fraud, waste, and abuse in health care programs which receive Federal and/or State funding and to promote efficiency and economy in the operations of these programs. The OIG and OMIG carry out this mission through audits, inspections and investigations. In addition, the OIG has been given the authority to exclude from participation in Medicare, Medicaid and other Federal health care programs individuals and entities who have engaged in fraud or abuse, and to impose civil monetary penalties for certain misconduct related to Federal health care programs (sections 1128 and 1156 of the Social Security Act). The OMIG and the New York Department of Health have this authority with respect to health care programs which receive funding from the State of New York.

The effect of an OIG or OMIG exclusion from Federal and/or State health care programs is that no Federal and/or State health care 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 physician. This payment ban applies to all methods of Federal and/or State program reimbursement, whether payment results from itemized claims, cost reports, fee schedules or a prospective payment system. Any items and services furnished by an excluded individual or entity are not reimbursable under Federal and/or State health care programs. In addition, any items and services furnished at the medical direction or prescription of an excluded physician are not reimbursable when the individual or entity furnishing the services either knows or should know of the exclusion. The prohibition applies even when the Federal and/or State payment itself is made to another provider or supplier that is not excluded.

The prohibition against Federal and/or State 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 patient care, but that are a necessary component of providing items and services to Federal and/or State program beneficiaries. This prohibition continues to apply to an individual even if he or she changes from one health profession to another while excluded. In addition, no Federal and/or State program payment may be made to cover an excluded individual's salary, expenses or fringe benefits, regardless of whether the individual provided direct patient care.

## **POLICY**

1. Northwell Health prohibits the employment, appointment or election of, execution of contracts with, provision of items or services at the direction or prescription of, and/or use of services provided by Ineligible Persons.
2. Northwell Health shall ensure that all Screened Persons are screened against the applicable Exclusion Lists prior to engaging their services as part of the hiring, election, credentialing or contracting process on a monthly basis. The National Practitioner Database (NPDB) shall be queried upon credentialing and re-credentialing and when any changes are made to the privileges for licensed physicians or allied healthcare professionals.
3. Northwell Health requires every Screened Person to disclose his/her status as an Ineligible Person prior to hire, election, contract or appointment, or at any time thereafter during the course of its association with Northwell Health. In applicable cases, Northwell Health may accept an affidavit or representations and warranties from an entity affirming that the entity has performed its own screening against the Exclusion Lists and neither the entity, nor any individuals who are Screened Persons, are ineligible. Such affirmation or representations and warranties must include a requirement that the entity notify Northwell Health of any changes in the exclusion or ineligibility status of any Screened Persons.
4. Whenever Northwell Health has actual notice that an employed, appointed, elected or contracted Screened Person has become an Ineligible Person, Northwell Health will remove such Screened Person from responsibility for, or involvement in, the business operations related to any Federal and/or State health care program or provision of items or services, directly or indirectly, to Federal and/or State health care program beneficiaries and shall remove such person from any position for which the Ineligible Person's compensation, or the items or services furnished, ordered, or prescribed by the Ineligible Person, are paid in whole or part, directly or indirectly, by a Federal and/or State funded health care program.

## **SCOPE**

This policy applies to all Northwell Health employees, as well as medical staff, volunteers, students, trainees, physician office staff, contractors, trustees and other persons performing work for or at Northwell Health; faculty and students of the Donald and Barbara Zucker School of

Medicine at Hofstra/Northwell conducting research on behalf of the Zucker School of Medicine on or at any Northwell Health facility; and the faculty and students of the Hofstra Northwell School of Graduate Nursing and Physician Assistant Studies.

## **DEFINITIONS**

**Exclusion Lists:** means Office of Inspector General (OIG) List of Excluded Individuals/Entities (LEIE), the General Services Administration Excluded Parties List System (EPLS), and the New York State Department of Health/OMIG Exclusion List (OMIG) and, as applicable, the National Practitioner Databank (NPDB), SSA-Death Master File (DMF), and other available state exclusion lists. The screening vendor queries available exclusion databases monthly on behalf of Northwell Health.

**Federal 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. Federal health care programs include, but are not limited to, Medicare, Medicaid, managed Medicare/Medicaid, Federal Employees Health Benefit Plan and TRICARE/CHAMPUS.

**State 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 State of New York. New York State health care programs include, but are not limited to, New York Medicaid.

**Ineligible Person:** means an individual or entity: (a) currently excluded, suspended, or debarred, or otherwise ineligible to participate in the Federal health care programs or in federal procurement or non-procurement programs; (b) that has been convicted of a criminal offense that falls within the ambit of 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible; or (c) has been restricted, terminated or excluded under the provisions of 18 NYCRR § 504.7(b)-(h), 18 NYCRR §515.3, or 18 NYCRR §515.7. Ineligible persons may include, but are not limited to, nurses, physicians or allied health practitioners, coders, other staff (whether employed, contracted or temporary), trustees vendors, and applicable volunteers.

**Screened Person:** means all trustees, officers, employees, contractors and agents of Northwell Health, including, but not limited to, medical staff, nurses, allied healthcare professionals, vendors, and applicable volunteers.

**FDR:** means First Tier, Downstream and Related Entities as defined by the Centers for Medicare & Medicaid Services. Northwell Health may contract with certain external entities to perform services related to obligations under Medicare managed care contracts. The Centers for Medicare & Medicaid refers to these external entities as First Tier, Downstream and Related Entities or FDRs.

## **PROCEDURE/GUIDELINES**

## SCREENING OF EMPLOYEES, TRUSTEES, AND VOLUNTEERS

### Northwell Health Employees

- A. Pursuant to Northwell Health Department of Human Resources (Human Resources) Policy #9-1, "Background Investigations," or similar facility policies, Human Resources shall screen all potential new employees against the Exclusion Lists prior to hiring. Any job offer made prior to the completion of the screening shall be contingent upon the individual not being an Ineligible Person. Any applicant found to be an Ineligible Person shall not be hired. Documentation of all pre-employment screening shall be kept by the Human Resources Department for at least ten years.
- B. After the initial screening, the Office of Corporate Compliance and/or its designee will be provided an employee list from Human Resources and shall conduct monthly screenings of all Northwell Health employees against the Exclusion Lists. Any individual found to be an Ineligible Person will be immediately removed from all activities that may, directly or indirectly, be billed to Federal and/or State-funded health care programs. Documentation of the monthly screenings shall be kept by the Office of Corporate Compliance. The Office of Corporate Compliance will immediately notify the Chief Risk Officer or designee at [Medmallitigation@northwell.edu](mailto:Medmallitigation@northwell.edu), the Office of Legal Affairs, Human Resources, and applicable facility and medical leadership regarding any such individual who is found to be an Ineligible Person. Documentation of such screenings shall be kept by the Office of Corporate Compliance for at least ten years.

### Trustees of Northwell Health and its Affiliated Entities

- C. The Office of Trustee Relations shall notify the Office of Corporate Compliance regarding all individuals who are proposed for membership on either Northwell Health Board of Trustees or the Board of Trustees of its applicable affiliated entities. The Office of Corporate Compliance shall conduct screenings of all such individuals prior to their appointment to the Board. The Office of Corporate Compliance also shall screen all current Trustees on a monthly basis. Any Trustee found to be an Ineligible Person will be immediately removed from all activities that may, directly or indirectly, be billed to Federal and/or State-funded health care programs and will be removed from the Board of Trustees pursuant to the process set forth in the Corporate By-Laws. The Office of Corporate Compliance will immediately notify the Chief Risk Officer or designee, Office of Trustee Relations, and the Office of Legal Affairs regarding any Trustee who is found to be an Ineligible Person. Documentation of such screenings shall be kept by the Office of Corporate Compliance for at least ten years.

### Northwell Health Volunteers

- D. The Volunteers department at applicable facilities shall screen all applicable volunteers prior to volunteering at a facility. Any volunteer offer made prior to the completion of the screening shall be contingent upon the individual not being an Ineligible Person.

Documentation of all pre-volunteer screening shall be kept by the Volunteers Department for at least ten years.

- E. After the initial screening, the applicable Volunteers departments shall submit to the Office of Corporate Compliance on a monthly basis a list of applicable volunteers for the Office of Corporate Compliance and/or its designee to conduct monthly screenings against the Exclusion Lists. Any individual found to be an Ineligible Person will be immediately removed from all activities that may, directly or indirectly, be billed to Federal and/or State-funded health care programs. Documentation of the monthly screenings shall be kept by the Office of Corporate Compliance. The Office of Corporate Compliance will immediately notify the Chief Risk Officer or designee, the Office of Legal Affairs, and applicable facility and medical leadership regarding any such individual who is found to be an Ineligible Person. Documentation of such screenings shall be kept by the Office of Corporate Compliance for at least ten years.

#### **SCREENING OF PRACTITIONERS**

- F. Northwell Health's Credentialing Central Office shall screen against the Exclusion Lists and the NPDB for all individuals who apply for privileges, apply for renewal of privileges, seek an extension or modification of privileges and/or seek to change their supervising or collaborating physician status. In the event that an individual is found to be an Ineligible Person, the application for privileges or other action related to privileges shall be denied. Credentialing Central Office shall immediately notify the Office of Corporate Compliance, Chief Risk Officer or designee at [Medmallitigation@northwell.edu](mailto:Medmallitigation@northwell.edu), Medical Staff Services and the Office of Legal Affairs regarding any such individual who is found to be an Ineligible Person. Documentation of such screenings shall be kept by Medical Staff Services for at least ten years.
- G. In addition, the Office of Corporate Compliance and/or its designee shall screen all credentialed individuals on a monthly basis against the Exclusion Lists. Any individual found to be an Ineligible Person will be immediately removed from all activities that may, directly or indirectly, be billed to Federal and/or State-funded health care programs. The Office of Corporate Compliance will immediately notify the Chief Risk Officer or designee at [Medmallitigation@northwell.edu](mailto:Medmallitigation@northwell.edu), the Office of Legal Affairs, Medical Staff Services and applicable facility and medical leadership regarding any such individual who is found to be an Ineligible Person. Documentation of the monthly screenings shall be kept by the Office of Corporate Compliance for at least ten years.

#### **SCREENING OF VENDORS**

- H. The Office of Procurement shall require certain new Northwell Health vendors to conduct an Exclusion Lists screening of the vendor at the vendor's expense or the Office of Procurement or its designated exclusion screening company will screen all other vendors against the Exclusion Lists. Failure to comply with the process shall result in the vendor being immediately excluded from doing business with Northwell

Health. Any vendor found to be an Ineligible Person is not contracted with to conduct business with Northwell Health. Documentation of the vendor screenings shall be kept by the Office of Procurement for at least ten years.

- I. The Office of Procurement provides Northwell Health's designated exclusion screening company a list of all vendors to be screened against the Exclusion Lists on a monthly basis. The Office of Corporate Compliance reviews the results of these monthly screenings. The Office of Corporate Compliance will immediately notify Procurement, the Chief Risk Officer or designee and the Office of Legal Affairs regarding any vendor who is found to be an Ineligible Person. Any vendor found to be an Ineligible Person is immediately closed for ordering and inactivated in PeopleSoft. A note is placed in the vendor comments indicating that the vendor appeared on an Exclusion List.
- J. Any vendor found to be an Ineligible Person is also immediately removed from all activities that may, directly or indirectly, be billed to Federal and/or State-funded health care programs and will be terminated pursuant to its contractual provisions unless immediate removal would result in patient harm. Documentation of the monthly screenings shall be kept by the Office of Corporate Compliance for at least ten years.

**SCREENING OF APPLICABLE JOINT VENTURES, PARTNERSHIP AND BUSINESS LINE INDIVIDUALS**

- K. The applicable associated entities, including, but not limited to certain joint ventures where we hold a majority interest, other related entities, and other lines of business (e.g., CareConnect, Clinical Integration Network IPA (CIIPA), Medicare Shared Savings Program Accountable Care Organization, Bundled Payments for Care Improvement Initiative) or entities where Northwell Health has been engaged in a professional capacity to provide and/or render compliance services (e.g., Staten Island Performing Provider System), shall submit to the Office of Corporate Compliance on a monthly basis a list of applicable individuals and entities for the Office of Corporate Compliance and/or its designee to conduct monthly screenings against the Exclusion Lists.
- L. Any individual found to be an Ineligible Person will be immediately removed from all activities that may, directly or indirectly, be billed to Federal and/or State-funded health care programs. Documentation of the monthly screenings shall be kept by the Office of Corporate Compliance and/or the applicable entity. The Office of Corporate Compliance will immediately notify the Chief Risk Officer or designee, the Office of Legal Affairs, Human Resources, and applicable business and medical leadership as applicable regarding any such individual or entity that is found to be an Ineligible Person. Documentation of such screenings shall be kept by the Office of Corporate Compliance and/or business for at least ten years.

**MEDICARE MANAGED CARE COMPLIANCE REQUIREMENT**

- M. All staff supporting Medicare Advantage Programs will be screened pursuant to

Medicare Managed Care Manual Ch. 21 and Prescription Drug Benefit Manual Ch. 9 Sect. 50.6.8. Northwell Health shall not use federal funds to pay for services, equipment or drugs prescribed or provided by a provider, supplier, employee or FDR excluded by the OIG or EPLS.

### **COMPLIANCE EXCLUSION SCREENING PROCESS1**

- N. At the beginning of each month Compliance shall send out an email to all known data owners, requesting that they forward their respective exclusion data files for screening. The files generally shall be received in Compliance by the 10<sup>th</sup> of each month. A follow-up email is sent out to all known data owners as a reminder that the exclusion data files are due.
- O. Upon receipt, the exclusion data files are reviewed for completeness and data owners are notified to provide any needed information not included. Once the format and data are verified, Compliance manually uploads the files to the screening vendor and the screening vendor organizes the files by facility and/or business entity.
- P. The screening vendor then screens the file records against the respective databases to be searched. The screening vendor works through all identified data issues with the exclusion data files. Potential excluded individuals or entities that the vendor cannot clear is referred back to Compliance; who in turn informs the data owner to research and work with the screening vendor to “clear” or “fail” the individual/entity.
- Q. All failed items are referred to Office of Legal Affairs, Medical Staff Services, Chief Risk Officer or designee and/or Human Resources, and the applicable department/entity as applicable for final disposition.
- R. The screening vendor provides a report to Compliance at the end of each month detailing the results by file/facility. The summary report is then forwarded to the Office of Corporate Compliance and the applicable data owners.
- S. New facilities/entities are required to submit the respective files to Compliance for exclusion screening monthly. Once facilities/entities are transitioned fully into Northwell Health and integrated with the current electronic systems, they will no longer be required to provide individual files for screening because the requisite data will be centralized.

### **SCREENED PERSON OBLIGATIONS INCLUDING EMPLOYEES, MEDICAL STAFF AND VENDORS**

- T. All Screened Persons are required to disclose immediately to their manager, facility Compliance Director, Chief Corporate Compliance Officer and Executive Director any debarment, exclusion, suspension or other event that makes that person or entity an Ineligible Person.

- U. Anyone who receives actual notice through a screening process or other means that a Screened Person has become an Ineligible Person shall immediately notify the Office of Corporate Compliance. The Office of Corporate Compliance shall coordinate with the affected Northwell Health unit or related entity to: (1) notify the Ineligible Person; (2) remove such Ineligible Person from responsibility for, or involvement in, the provision of services or business operations related to any Federal and/or State-funded health care programs; and (3) remove such Ineligible Person from any position for which that person's compensation or the items or services furnished, ordered, or prescribed by the Ineligible Person are paid in whole or part, directly or indirectly, by Federal and/or State-funded health care programs.
  
- V. Anyone who has actual notice that a Screened Person is charged with a criminal offense that falls within the ambit of 42 U.S.C. § 1320a-7(a) or 42 U.S. §§ 1320a-7(b)(1)-(3), or is proposed for exclusion during their employment or contract term, or, in the case of a credentialed individual, during the term of that individual's medical staff privileges, shall immediately notify the Office of Corporate Compliance. The Office of Corporate Compliance shall coordinate with the affected department or related entity to ensure that the responsibilities of that Screened Person have not and shall not adversely affect: (a) the quality of care rendered to any beneficiary, patient, or resident; or (b) the accuracy of any claims submitted retrospective or prospectively to any Federal and/or State-funded health care programs. This may include suspension, termination, termination of the contract, or other actions as authorized by other Northwell Health or the related entity's policies, Medical Staff By-laws or Corporate By-laws.
  
- W. Failure of Screened Persons to comply with provisions under the section entitled, Screened Person Obligations, may result in disciplinary action up to and including suspension or termination, termination of the contract, or other actions as authorized by other Northwell Health or related entity's policies, Medical Staff By-laws or Corporate By-laws.

#### **SCREENED PERSON DUE PROCESS RIGHTS**

- X. If the Screened Person denies any material findings contained in the background screening results, the Office of Corporate Compliance shall be notified and shall initiate further investigation. The Screened Person may provide documentation indicating that he or she is not excluded or that reinstatement has been granted. The subject may also submit a sworn affidavit that he or she is not the Ineligible Person who appears on the Exclusion Lists. Human Resources, Medical Staff Services or other responsible department shall forward the documentation to the Office of Corporate Compliance for evaluation and input. After the additional investigation is completed, the Office of Corporate Compliance or related entity will provide a response to the Screened Person within a reasonable period of time.

#### **CORRECTIVE ACTION AND REPAYMENT OF INELIGIBLE PERSONS' ITEMS AND SERVICES**



- Y. Departments and/or Entities for which the Ineligible Person has provided any services shall inform the Chief Corporate Compliance Officer or his/her designee of the details of any potential compliance issues associated with the Ineligible Person. The Chief Corporate Compliance Officer or his/her designee shall develop a corrective action plan.
- Z. The Chief Corporate Compliance Officer or his/her designee shall develop a corrective action plan. Where applicable, the Office of Corporate Compliance will notify the Finance Department (Finance) or the related entity regarding the Ineligible Person. Finance or the related entity shall determine whether any services provided by the Ineligible Person had been billed to any Federal or State-funded health care programs since the date of the exclusion of the Ineligible Person and/or whether the Ineligible Person impacted Northwell Health's cost reporting obligations. If Finance determines that any payments for items or services rendered by the Ineligible Person have been received from any Federal and/or State-funded health care programs since the date of exclusion, the payment(s) shall be refunded to the payer. Bills that have not yet been submitted for such items or services shall not be submitted for payment. Cost reports shall be adjusted as necessary by Finance.

## **REFERENCES to REGULATIONS and/or OTHER RELATED POLICIES**

OIG Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Programs, 64 FR 52,791 (September 30, 1999)

OIG Compliance Program Guidance for Hospitals, 63 FR 8,987, at p. 8996 (February 23, 1998)

OIG Supplemental Compliance Guidance for Hospitals, 70 FR 4858, at 4,876. (January 31, 2005)

42 U.S.C. § 1320a-7(a) (Mandates exclusion for conviction of health care program-related crimes, conviction relating to patient abuse or neglect, felony conviction relating to health care fraud, or felony conviction relating to controlled substances.)

42 U.S.C. §§ 1320a-7(b)(1)-(3) (Permits exclusion for misdemeanor conviction relating to health care fraud, conviction relating to fraud in non-health care programs, conviction relating to obstruction of an investigation, or misdemeanor conviction relating to controlled substances.)

OMIG Compliance Program Required Provider Duties, 18 NYCRR §521.3(a).

18 NYCRR § 504.7(b) - (h), 18 NYCRR §515.3, or 18 NYCRR §515.7 (Permits restrictions, terminations or exclusions of individuals or entities from participation in the Medicaid program).

OIG Updated Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Program (May 9, 2013)

Northwell Health Human Resources Policy Part 9-3 - Background Investigations

**CLINICAL REFERENCES/PROFESSIONAL SOCIETY GUIDELINES**

N/A

**ATTACHMENTS**

N/A

**FORMS**

N/A

<b><u>APPROVAL:</u></b>	
System Administrative P&P Committee	11/30/17
System PICG/Clinical Operations Committee	

**Standardized Versioning History:**

\*=Policy Committee Approval; \*\* =PICG/Clinical Operations Committee Approval

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