Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

Rajashakher P. Reddy, M.D.
(OI File No. 4-08-40429-9),

Petitioner,

v.

The Inspector General.

Docket No. C-12-1081

Decision No. CR2681

Date: January 3, 2013

DECISION

The Inspector General (I.G.) of the Department of Health and Human Services notified Rajashakher P. Reddy, M.D. (Petitioner) that he was being excluded from participation in Medicare, Medicaid, and all other federal health care programs for 13 years. The I.G. based the length of exclusion on the presence of three aggravating factors. I find that Petitioner is subject to a mandatory exclusion; however, because the I.G. only proved the existence of two aggravating factors, the period of exclusion is reduced to 12 years.

I. Background

Petitioner is a radiologist who was found guilty after a jury trial in the United States District Court, Northern District of Georgia, Atlanta Division (District Court), of 20 counts of wire fraud, seven counts of mail fraud, four counts of health care fraud, and one count of falsification of records in a federal investigation. In a letter dated May 31, 2012, the I.G. notified Petitioner that he was being excluded from participation in Medicare, Medicaid, and all federal health care programs for a period of 13 years under 42 U.S.C. § 1320a-7(a)(1) and (a)(3). The basis cited for Petitioner's exclusion under section 1320a-7(a)(1) was his conviction in the District Court of a criminal offense related to the

delivery of an item or service under Medicare or a state health care program. The basis cited for Petitioner's exclusion under section 1320a-7(a)(3) was his felony conviction, in the District Court, of a criminal offense related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a health care item or service.

Petitioner, through counsel, appealed the I.G.'s exclusion and this case was assigned to me for hearing and decision. On August 21, 2012, I convened a prehearing conference by telephone, the substance of which is summarized in my Order and Schedule for Filing Briefs and Documentary Evidence (Order), dated August 22, 2012. *See* 42 C.F.R. § 1005.6. Pursuant to the Order, the I.G. filed a brief (I.G. Br.) on September 21, 2012, with I.G.'s exhibits (I.G. Exs.) 1 through 3. Petitioner filed a response (P. Br.) on October 19, 2012, with Petitioner's exhibits (P. Exs.) 1 and 2. The I.G. filed a reply brief (I.G. Reply) on November 5, 2012. I admit CMS Exs. 1-3 and P. Exs. 1-2 into the record because neither party objected to any of the exhibits. Furthermore, both parties indicated that an in-person hearing was unnecessary (I.G. Br. at 7; P. Br. at 8); therefore, I issue this decision on the basis of the written record.

II. Issues

Under 42 C.F.R. § 1001.2007(a)(1), the scope of my review is limited to two issues:

1. Whether the I.G. has a basis for excluding Petitioner from participating in Medicare, Medicaid, and all other federal health care programs pursuant to 42 U.S.C. § 1320a-7(a)(1) and/or (a)(3); and

2. Whether the length of the exclusion is unreasonable.

III. Findings of Fact, Conclusions of Law, and Analysis[1]

A. Petitioner was convicted of 32 counts of felonious conduct.

On July 13, 2010, a 37-count Superseding Indictment filed in the District Court charged Petitioner with: Counts 1 through 25, Wire Fraud, in violation of 18 U.S.C. § 1343; Counts 26 through 32, Mail Fraud, in violation of 18 U.S.C. § 1341; Counts 33 through 36, Health Care Fraud, in violation of 18 U.S.C. §1347; and Count 37, Falsification of Records in Federal Investigation, in violation of 18 U.S.C. § 1519. I.G. Ex. 3.

According to the indictment, Petitioner, a Board-certified radiologist, owned a teleradiology company, Reddy Solutions, Inc. (RSI) and served as one of the radiologists who submitted signed reports to client hospitals and other providers. I.G. Ex. 3, at 1-2.

[1] My findings of fact and conclusions of law are set forth in italics and bold font.

The indictment charged that Petitioner "fraudulently signed and submitted radiology reports for tens of thousands of patients to the hospitals and other providers who were RSI clients, in cases where neither he nor any other RSI physician had ever reviewed and analyzed the film." I.G. Ex. 3, at 3. The indictment further charged that Petitioner knew that "the hospital or other RSI client then submitted bills to Medicare and private insurance companies for these tests, including for the supposed professional services of a qualified radiologist that never in fact occurred." I.G. Ex. 3, at 5. The indictment stated that "RSI received over $1.5 million during this time for these specific, fraudulent, reports, which were not actually reviewed by a physician." I.G. Ex. 3, at 3.

The wire fraud counts, Counts 1 through 25, charged that, beginning on or about June 14, 2007, and continuing through December 31, 2007, Petitioner knowingly and willfully executed his scheme to defraud by causing to be transmitted to his hospital clients, in interstate commerce, radiology reports bearing his electronic signature. The mail fraud counts, Counts 6 through 32, charged that, for the purpose of executing and attempting to execute the scheme to defraud and obtain money by false pretenses, Petitioner knowingly caused mail (i.e. checks which represented payment for RSI invoices) to be sent to RSI by the hospital clients. The health care fraud counts, Counts 33 through 36, charged that Petitioner knowingly and willfully executed the health care fraud scheme by causing client hospitals to submit claims to a health care benefit program for services that were not provided. The Falsification of Records in Federal Investigation count, Count 37, charged that, in or about February 2008, Petitioner "did knowingly alter, destroy, conceal, cover up, falsify and make a false entry in a record, document, and tangible object, with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of a department and agency of the United States." I.G. Ex. 3, at 10-11. The count describes how Petitioner directed an RSI information technology employee to alter and falsify computer records known as "access logs" before they were produced to the agencies. The count states further that after the access logs were falsified, Petitioner directed another employee to produce the set of falsified records to RSI's lawyers who then produced the false materials to the agencies in response to an investigative subpoena dated January 29, 2008. I.G. Ex. 3, at 11-12.

A jury found Petitioner guilty on Counts 1 through 4, 6 through 11, 13, 14, 16 through 19, and 22 through 25 of the Superseding Indictment. I.G. Ex. 2, at 1. The court entered judgment of conviction against Petitioner on December 13, 2011, finding Petitioner guilty of Wire Fraud, Counts 1 through 4, 6 through 11, 13, 14, 16 through 19, and 22 through 25; Mail Fraud, Counts 26 through 32; Health Care Fraud, Counts 33 through 36; and Falsification of Records in a Federal Investigation, Count 37. The court sentenced Petitioner to: 54 months of incarceration; three years of supervised release upon release from imprisonment; 300 hours of community service; and payment of a $3,200 assessment, a $15,000 fine, and $919,855.37 in restitution. I.G. Ex. 2.

B. Petitioner's convictions require exclusion under 42 U.S.C. § 1320a-7(a)(1) because his criminal conduct related to the delivery of an item or service under Medicare and/or Medicaid.

An individual must be excluded from participation in any federal health care program if the individual was convicted under federal or state law of a criminal offense related to the delivery of an item or service under Medicare or a state health care program. 42 U.S.C. § 1320a-7(a)(1). Petitioner concedes that his convictions require exclusion under section 1320a-7(a)(1). P. Br. at 1 n.2. I conclude that the record fully supports Petitioner's mandatory exclusion. I.G. Exs. 1-3.

C. Petitioner's convictions require exclusion under 42 U.S.C. § 1320a-7(a)(3) because the convictions were felony-level and based on Petitioner's fraudulent conduct in connection with the delivery of a health care item or service.

An individual must be excluded from participation in any federal health care program if the individual was convicted of a felony offense under federal or state law that occurred after August 21, 1996, if the offense was related to fraud, theft, embezzlement, breach of fiduciary responsibility or other financial misconduct, and if the offense was in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program other than Medicare or Medicaid and the program was operated or financed in whole or in part by any governmental agency. 42 U.S.C. § 1320a-7(a)(3). Petitioner concedes that his felony convictions require exclusion under section 1320a-7(a)(3). P. Br. at 1 n.2. I conclude that the record fully supports Petitioner's mandatory exclusion. I.G. Exs. 1-3.

D. Petitioner must be excluded for a minimum of five years.

Because I have concluded that a basis exists to exclude Petitioner pursuant to 42 U.S.C. § 1320a-7(a)(1) and (a)(3), the Petitioner must be excluded for a minimum period of five years. 42 U.S.C. § 1320a-7(c)(3)(B).

E. The I.G. proved that two aggravating factors exist in this case that justify lengthening the period of exclusion beyond the five-year statutory minimum.

The remaining issue is whether it is unreasonable to extend his period of exclusion by an additional eight years. My determination of whether the exclusionary period in this case is unreasonable turns on whether: (1) the I.G. has proven that there are aggravating factors; (2) Petitioner has proven that there are mitigating factors the I.G. failed to consider or that the I.G. considered an aggravating factor that does not exist; and (3) the period of exclusion is within a reasonable range.

The regulations establish aggravating factors that the I.G. may consider to lengthen the period of exclusion beyond the five-year minimum for a mandatory exclusion. 42 C.F.R. § 1001.102(b). Only if an aggravating factor justifies an exclusion longer than five years may mitigating factors be considered as a basis for reducing the period of exclusion to no less than five years. 42 C.F.R. § 1001.102(c).

In this case, the I.G. advised Petitioner in the May 31, 2012 exclusion notice that there were three aggravating factors that justify an exclusion of more than five years:

1. The acts resulting in the conviction, or similar acts, that caused, or were intended to cause, a financial loss to a government program or to one or more entities of $5,000 or more. 42 C.F.R. § 1001.102(b)(1). The I.G. stated that the court ordered Petitioner to pay restitution of approximately $919,800.
2. The acts that resulted in the conviction, or similar acts, were committed over a period of one year or more. 42 C.F.R. § 1001.102(b)(2). According to the I.G., Petitioner's criminal acts occurred from about mid-2006 to about January 2008.
3. The sentence imposed by the court included incarceration. 42 C.F.R. § 1001.102(b)(5). The I.G. stated that Petitioner was sentenced to 54 months of incarceration.

I.G. Ex. 1.

1. The aggravating factor at 42 C.F.R. § 1001.102(b)(1) (financial loss to a government program of $5,000 or more) has been proven.

The record shows that Petitioner was sentenced to pay restitution totaling $919,855.37 to public and private health care insurers. I note that, in listing the payees and amounts owed, the sentencing document shows that Petitioner was ordered to pay $272,511.24 to Medicare, $251,375.57 to Medicaid, and $22,930.35 to Tricare.[2] I.G. Ex. 2, at 6.

Although Petitioner concedes the existence of this aggravating factor, Petitioner argues that the restitution amount was a "negotiated amount" in order to accommodate sentencing calculations under federal sentencing guidelines and that there was no accurate method to calculate the restitution amount. P. Br. at 6. Petitioner cites to the sentencing hearing transcript to support this argument. Aside from conceding that the loss is more than $5,000, Petitioner does not offer any argument or evidence as to the amount I should consider as the loss to federal programs.

[2] Tricare is federal comprehensive managed care program that is part of the Military Health System. 32 U.S.C. § 199.17

I am not persuaded that the ordered restitution amount should be disregarded when determining the losses sustained by various programs and insurers under this aggravating factor. As the prosecutor explained during the sentencing hearing, the restitution amount was determined in a manner that only included the amount Petitioner billed for his services and not for the total cost of the radiological services that were billed for each patient (i.e., the billed amount for Petitioner's professional services and not the cost of creating the radiological images). P. Ex. 1, at 13-14. The prosecutor characterized this approach as "appropriate and conservative" and that victim Blue Cross/Blue Shield's position that restitution should be based on the total amount billed (i.e., professional services plus the creation of the radiological image) was "too aggressive." P. Ex. 1, at 14. Although Petitioner's attorney at the sentencing hearing indicated that the parties had to "hash out some of the very complex loss and restitution figures here," that same attorney stated that "all sides I think did a good and professional job in reaching the figures that we did." P. Ex. 1, at 16.

Based on the sentencing hearing transcript, it appears that the amount ordered as restitution is a conservative amount of the loss and that the parties made a good faith effort to calculate the loss. The I.G. has relied on the ordered restitution amount to show program loss. I agree with this approach because it is well established that restitution is a recognized measure of program loss. *E.g., Craig Richard Wilder*, DAB No. 2416, at 9 (2011). The parties appear to have acted in good faith in calculating the restitution amount. In any event, the fact that the parties agreed to an order of restitution in an amount over $900,000 leaves no doubt that Petitioner's crimes resulted in significant financial losses to Medicare, Medicaid, and Tricare, well in excess of the $5,000 threshold needed to meet the aggravating factor at 42 C.F.R. § 1001.102(b)(1).

2. The aggravating factor at 42 C.F.R. § 1001.102(b)(5) (sentence imposed by the court included incarceration) has been proven.

Petitioner does not dispute that he was sentenced to be imprisoned for 54 months. I.G. Ex. 2, at 2; P. Br. at 6. I conclude this aggravating factor cited by the I.G. is established. 42 C.F.R. § 1001.102(b)(5).

3. The aggravating factor at 42 C.F.R. § 1001.102(b)(2) (acts that resulted in the conviction, or similar acts, were committed over a period of one year or more) was not proven by the I.G.

The I.G. alleges that Petitioner's criminal acts or similar acts were committed over a period of one year or more and that the aggravating factor at 42 C.F.R. § 1001.102(b)(2) exists in this case. In support of its position, the I.G. asserts (I.G. Reply at 2) that the Second Superseding Indictment alleges in Paragraph One:

> From an unknown date, but at least as of mid-2006, through in or about January 2008, . . . [Petitioner] knowingly devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, promises, and by omissions of material facts, that is, by claiming to have performed health care services when he did not in fact perform such health care services, well knowing and having reason to know that said materially false pretenses, representations and promises were and would be false and fraudulent when made and that said omissions were and would be material.

I.G. Ex. 3, at 1.

The I.G. alleges further that Paragraph One of the indictment "is repeated and re-alleged in the counts of which [Petitioner] was convicted." I.G. Reply at 2.

Petitioner contends that the indictment shows that the duration of his criminal conduct was less than a year. Petitioner argues that the specific counts in the indictment for which he was found guilty included specific dates that amount to less than a year, with the earliest date specified in the indictment as June 14, 2007, and the latest as "in or about February 2008." P. Br. at 4; I.G. Ex. 3, at 5-10.

I find that there is no evidence that the jury or court found Paragraph One of the indictment, which alleged that Petitioner's criminal acts spanned the time period "at least as of mid-2006, through in or about January 2008," to be proven. I.G. Ex. 3, at 1. The Judgment of Conviction only lists the specific counts in the indictment that the jury found to be proven and not the facts generally alleged before the counts.[3] I.G. Ex. 2, at 1. Had the jury convicted Petitioner of all counts, I could infer that the jury found the entire indictment proven. However, the jury did not convict Petitioner on all counts. Of the counts proven, a review of the indictment indicates that the earliest specific date on which Petitioner transmitted fraudulent information was June 14, 2007 (Count One), and the latest was January 14, 2008 (Count 32). I.G. Ex. 3, at 5, 9. If the date relating to Petitioner's falsification of records in a federal investigation is added into the time span,

[3] In some previous cases, the general allegations related to a span of dates for the criminal conduct has been considered as sufficient evidence of the length of time that the criminal conducted occurred. However, these cases involved plea arrangements where the petitioner had pled guilty to all the allegations, sometimes in a revised charging document. *See e.g., Russell J. Ellicott*, DPM, DAB CR1552, at 11 (2007) *rev. declined* DAB No. 2075 (2007). Because the present case involves a jury verdict where all of the counts were not proven, I must look to additional evidence of record to decide this issue.

then the longest period of time Petitioner's adjudged misconduct lasted was through February 2008. I.G. Ex. 3, at 10. A time span of criminal conduct from June 2007 through February 2008 is generally consistent with the prosecutor's statements during the sentencing hearing that Petitioner's criminal misconduct took place over an "eight-month period" and that Petitioner's criminal activity was "months and months of repeated conduct." P. Ex. 1, at 4, 7. It is also consistent with the allegation in the indictment that federal investigators subpoenaed records from Petitioner that "cover[ed] specific periods of time in 2007." I.G. Ex. 3, at 11.

I am particularly persuaded by the prosecutor's statements during sentencing that Petitioner's criminal activities occurred over a period of months. The prosecutor made these statements when arguing for a long prison term and would not have understated the duration of Petitioner's proven criminal conduct. While Petitioner's scheme to defraud was complex and extensive, the record simply is not clear that the acts that led to his conviction, or even similar acts, occurred over a period of time that is more than a year. Therefore, I conclude that the I.G. did not prove the existence of the aggravating factor at 42 C.F.R. § 1001.102(b)(5) by a preponderance of the evidence.[4]

4. There are no mitigating factors in this case.

Because I found that aggravating factors are present in this case, I next consider whether there are any mitigating factors under 42 C.F.R. § 1001.102(c)) to offset the aggravating factors. Petitioner concedes that there are no mitigating factors in this case. P. Br. at 1 n.2, 3. Accordingly, I find that no mitigating factors exist which would justify reducing the period of exclusion.

F. Because the I.G. has only proven that two aggravating factors exist in this case, I find that 12-year exclusion, reduced from 13 years, is reasonable.

As discussed above, I found that the I.G. proved by a preponderance of the evidence the existence of two aggravating factors, but did not prove the existence of a third aggravating factor. Because I found that an aggravating factor considered by the I.G. in its exclusion notice is not proved, then some downward adjustment of the period of exclusion should be expected absent some circumstances that indicate no such adjustment is appropriate. *Gary Alan Katz, R. Ph.*, DAB No. 1842 (2002); *Jason Hollady,M.D., a/k/a Jason Lynn Hollady*, DAB No. 1855 (2002). Accordingly, given that the I.G. did not prove one of the three aggravating factors on which the I.G. relied in imposing the 13-year exclusion, I must reassess the appropriate period of exclusion in this case. In doing so, it is necessary that I weigh the aggravating factors that were proven by the I.G. My evaluation does not follow a specific formula for weighing those factors, but rather

[4] Pursuant to 42 C.F.R. § 1005.15(c), I informed the parties at the prehearing conference that the I.G. had the burden of proving the existence of aggravating factors. Order ¶ 5.

considers the weight to be accorded each factor based on the circumstances surrounding them in this case. *Sushil Aniruddh Sheth, M.D.*, DAB No. 2491 (2012).

As I discussed above, Petitioner was ordered to pay restitution in the total amount of $919,855.37, and of this amount he was ordered to pay $272,511.24 to Medicare, $251,375.57 to Medicaid, and $22,930.35 to Tricare. The record shows that one aspect of Petitioner's extensive health care fraud scheme involved client hospitals submitting claims to health care benefit programs for services that were never provided. Petitioner's criminal misconduct thus directly impacted Medicare, Medicaid, and Tricare, and, based on the restitution owed, it can be inferred that the financial losses to these programs attributable to his fraud was nearly $550,000. Restitution in an amount so substantially greater than the statutory standard is an "exceptional[ly] aggravating factor" that is entitled to significant weight. *Jeremy Robinson*, DAB No. 1905 (2004); *Donald A. Burstein, Ph.D.*, DAB No. 1865 (2003).

The other evidence of aggravation relates to Petitioner's sentence of 54 months incarceration for his crimes. Petitioner's sentence represents substantial jail time which indicates the seriousness of his offenses.

I find that the two proven aggravating factors are entitled to significant weight. Petitioner committed 31 felonies that had a substantial financial impact on Medicare, Medicaid, Tricare, and private insurers. His crimes resulted in a lengthy term of imprisonment. There is ample evidence that Petitioner is a highly untrustworthy individual who should be excluded for a lengthy period. Petitioner's lack of trustworthiness is exemplified by his conviction for falsification of records during the federal investigation into his criminal conduct. I.G. Exs. 2, at 1, 3, at 10-12. However, in light of the fact that the I.G. did not prove one of the aggravating factors, I will reduce the exclusion period to 12 years.

I am only reducing the period of exclusion by one year because the two proven aggravating factors are of such a significant nature that they provide a basis for an exclusion lasting well in excess of the five-year minimum. I conclude that the fact that a federal investigation forced Petitioner to terminate his extensive criminal scheme a few months shy of an entire year does not provide a reason for a substantial reduction in Petitioner's exclusion. Petitioner is a threat to Medicare and excluding him from participating in federal healthcare programs for less than 12 years is insufficient to safeguard those programs.

Petitioner argues that his exclusion is excessive and should be reduced to ten years or less. P. Br. at 6. In support of this argument, Petitioner urges me to consider the following: Petitioner's exclusion would effectively bar him from ever returning to the practice of medicine, especially in his specialty of radiology; Petitioner voluntarily relinquished his medical license in July 2011, almost eleven months before the I.G.'s imposition of the exclusion; Petitioner's 54-month prison term reflects the sentencing

judge's sentiment that Petitioner will return to medical practice someday; Petitioner's criminal judgment does not prohibit him from practicing medicine during his supervised release period; and Petitioner would like to repay the restitution amount but can only repay it if he can once again earn a living.[5]

The regulations specifically outline what factors may be considered mitigating and none of Petitioner's arguments relates to any of those mitigating factors. *See* 42 C.F.R. § 1001.102(c). Moreover, "the practical effect of a finite exclusion period on the individual's ability to participate in the Medicare program in the future is irrelevant to determining a reasonable exclusion period." *Sheth*, DAB No. 2491, at 18 (noting that the Departmental Appeals Board "has repeatedly declined to consider an individual's age or financial or employment prospects in determining whether an exclusion period is reasonable" (citing *Jeremy Robinson*, DAB No. 1905, at 7 (2004))). Thus, the negative practical consequences to Petitioner's medical career and financial situation are irrelevant and immaterial to determining the reasonableness of the length of exclusion.

I find disingenuous Petitioner's attempt to portray himself as a trustworthy individual. The evidence shows that Petitioner exhibited a high degree of untrustworthiness. By perpetrating a large scale scheme to defraud Medicare, Medicaid, Tricare, and private health insurers, Petitioner demonstrated that he is a significant threat to the integrity of health care programs. Petitioner has not shown sincere remorse for his conduct. To the contrary, he destroyed and fabricated evidence to mislead a federal investigation into his activities. I.G. Ex. 3, at 10-13.

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[5] Petitioner also argues that Petitioner's case is comparable to another case in which two aggravating factors resulted in a 10-year exclusion. *See Russell J. Ellicott*, DPM, DAB CR1552 (2007) *rev. declined* DAB No. 2075 (2007). Although I may consider comparable cases in order "to inform a determination of the reasonableness of the exclusion," such comparisons are "not dispositive." *Sheth*, DAB No. 2491, at 6. Although two aggravating factors were proven in the present case and *Ellicott*, *Ellicott* involved one aggravating factor that is the same as in the present case (42 C.F.R. § 1001.102(b)(1) - program loss of more than $5,000) and one that is different (42 C.F.R. § 1001.102(b)(2) - length of criminal activity extending more than a year). DAB CR1552, at 10-11. It is true that *Ellicott* and the current case involve program losses of more than $5,000, but Ellicott was only ordered to pay restitution in the amount of $113,101, which is substantially less than the $919,855.37 in restitution Petitioner was ordered to pay. *Id*. Further, Petitioner was convicted of 32 felonies and sentenced to 54 months of incarceration, resulting in a finding of an aggravating factor under 42 C.F.R. § 1001.102(b)(5), but Ellicott only pled guilty to four misdemeanors and was sentenced to probation. *Id*. at 2. Due to the differences in the present case and *Ellicott*, a comparison between them does not support a reduction in Petitioner's period of exclusion. The I.G. did not present any argument concerning comparable cases.

Further, Petitioner endangered as many as 70,000 patients by failing to read their radiological films before the test reports were released. As summarized by the prosecutor during the sentencing hearing:

> The sheer risk that is placed here by a doctor who is lying about whether he's even doing the work and looking at the tests, the risk that that [sic] is posing to the public and to the patients and the uncertainty that this may create is itself something that I think separates this from the normal healthcare case, a case that is usually about billing codes and money.

P. Ex. 1, at 5.

The record shows that Petitioner is entirely untrustworthy. He has endangered his patients for monetary gain. Based on the evidence of record and with consideration of the I.G.'s original exclusion determination, I conclude that a 12-year period of exclusion is reasonable.

IV. Conclusion

For the foregoing reasons, I sustain the I.G.'s determination to exclude Petitioner from participating in Medicare, Medicaid, and all federal health care programs pursuant to 42 U.S.C. § 1320a-7(a)(1) and (a)(3). I hereby order Petitioner excluded for a period of 12 years commencing on the date that the I.G.'s exclusion originally took effect. *See* 42 C.F.R. § 1005.20(b).

/s/
Scott Anderson
Administrative Law Judge