

**Department of Health and Human Services**

**DEPARTMENTAL APPEALS BOARD**

**Civil Remedies Division**

George Andrew Love,

Petitioner,

v.

The Inspector General.

Docket No. C-10-129

Decision No. CR2086

Date: March 09, 2010

**DECISION**

I sustain the determination of the Inspector General (I.G.) to exclude Petitioner, George Andrew Love, from participating in Medicare and other federally funded health care programs for a period of at least five years.

**I. Background**

On September 30, 2009 the I.G. notified Petitioner that he was excluded from participating in Medicare and other federally funded health care programs for a period of at least five years. The I.G. told Petitioner that he was being excluded because he had been convicted of a criminal offense as is described at section 1128(a)(1) of the Social Security Act (Act). This section mandates the exclusion of any individual who has been convicted of a criminal offense related to the delivery of an item or service under Medicare or a State health care program (a State Medicaid program).

Petitioner requested a hearing and the case was assigned to me for a hearing and a decision. Each party submitted a brief. The I.G. decided not to file a reply brief. The I.G. additionally filed six proposed exhibits which are identified as I.G. Ex. 1 – I.G. Ex. 6. Petitioner filed no proposed exhibits. I receive I.G. Ex. 1 – I.G. Ex. 6 into the record. Neither party requested that I convene an in-person hearing.

## **II. Issues, findings of fact and conclusions of law**

### **A. Issues**

The issues in this case are whether:

1. Petitioner was convicted of a criminal offense as is described at section 1128(a)(1) of the Act; and
2. The five year minimum exclusion imposed by the I.G. is reasonable as a matter of law.

### **B. Findings of fact and conclusions of law**

I make the following findings of fact and conclusions of law (Findings).

#### ***1. Petitioner was convicted of a criminal offense as is described at section 1128(a)(1) of the Act.***

On April 21, 2009 Petitioner was convicted in United States District Court for the District of South Carolina after Petitioner pled guilty to a single count of a superseding criminal information. I.G. Ex. 4, at 1; I.G. Ex. 5, at 1. Petitioner pled guilty to a scheme in which he and another individual submitted 3,287 false claims for Medicaid reimbursement with the South Carolina Department of Health and Human Services. I.G. Ex. 3, at 2. In essence, Petitioner was convicted of falsely representing that claims had been filled at a pharmacy that he controlled when, in fact, the claims had been filled at another pharmacy. *Id.* The purpose of this scheme was to enable payments for the false claims to be divided between Petitioner and a co-conspirator. I.G. Ex. 6, at 2.

The conviction plainly is of an offense that is related to the delivery of items or service under a State health care program (The South Carolina Medicaid program) and thus, falls within the reach of section 1128(a)(1) of the Act. The scheme perpetrated by Petitioner and another individual was essentially to defraud the South Carolina Medicaid program by inducing it to make payments to him for items that he did not supply. Indeed, the crime was not just related to Medicaid items or services but such services were the target of the crime. Falsely claimed

