

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

Lisa M. McManaman,
(OI File No. H-17-40263-9),

Petitioner,

v.

The Inspector General

Docket No. C-17-936

Decision No. CR4983

Date: December 13, 2017

DECISION

Petitioner, Lisa M. McManaman, was a registered nurse in the State of Rhode Island, working for the United States Department of Veterans Affairs (VA). She was charged with felony counts of making false statements and theft of government property and pled guilty to both charges. Based on her conviction, the Inspector General (IG) has excluded her from participating in the Medicare, Medicaid, and all federal health care programs for a period of five years, pursuant to section 1128(a)(3) of the Social Security Act (Act).

For the reasons discussed below, I find that the IG is authorized to exclude Petitioner and that the statute mandates a minimum five-year exclusion.

Background

In a letter dated June 30, 2017, the IG advised Petitioner McManaman that, because she had been convicted of a felony 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, the IG was excluding her from participating in Medicare,

Medicaid, and all federal health care programs for a period of five years. IG Ex. 1. Petitioner requested review.

The parties have submitted their written arguments (IG Br.; P. Br.). The IG submitted five exhibits (IG Exs. 1-5) and a reply. Petitioner submitted five exhibits (P. Exs. 1-5).

I admit into evidence IG Exs. 1-5 and P. Exs. 1-5.

The parties agree that this case does not require an in-person hearing. IG Br. at 5; P. Br. at 7-8.

Discussion

Petitioner must be excluded from program participation for a minimum of five years because she was convicted of a felony relating to fraud and theft in connection with the delivery of a health care item or service.¹

Section 1128(a)(3) provides that an individual or entity convicted of felony fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a health care item or service must be excluded from participating in federal health care programs for a minimum of five years. *See* 42 C.F.R. § 1001.101(c).

Petitioner was a registered nurse, employed at the VA Medical Center in Providence, Rhode Island. In applying for the VA position, she claimed, falsely, that she had not been fired or discharged from any job for any reason. After she was hired, she had access to the medical center's medication dispensing system, and, over a period of about six months, she stole from the medical center controlled substances, including oxycodone, morphine, hydromorphone, and lorazepam. IG Ex. 2 at 1, 4; IG Ex. 3 at 3.

In an information filed in federal district court on January 21, 2016, Petitioner was charged with one felony count of making false statements and one felony count of theft of government property. IG Ex. 2. At about the same time, she signed a plea agreement, agreeing to plead guilty to both charges. IG Ex. 3. On May 12, 2016, the federal district court for the District of Rhode Island accepted her guilty plea, sentenced her to two years probation, and ordered her to participate in mental health and substance abuse programs, including substance abuse testing. IG Ex. 4.

¹ I make this one finding of fact/conclusion of law.

