

United States Department of Health and Human Services

**DEPARTMENTAL APPEALS BOARD**

Civil Remedies Division

In the Case of:	)	
	)	
_____	)	Date:
	)	
Petitioner,	)	
	)	Docket No. C- -
- v. -	)	
	)	
The Inspector General.	)	
_____	)	

**INFORMAL BRIEF OF PETITIONER**

The Inspector General (I.G.) argues that he must exclude you from participating in Medicare, Medicaid, and other federally-funded health care programs for at least \_\_\_\_\_ years, because you were convicted of a criminal offense that is described at section 1128(a)(2) of the Social Security Act and because there is evidence that justifies the length of the exclusion that the I.G. determined to impose.

The issues in this case are whether:

1. The I.G. is required to exclude you; and
2. The length of the exclusion that the I.G. determined to impose is reasonable.

**I. Were you convicted of a criminal offense?**

\_\_\_ Yes \_\_\_ No

Do you agree that you were convicted of a criminal offense?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If you **disagree**, explain why you disagree. State which exhibits support your argument and explain why they do.

**II. Were you convicted of an offense for which exclusion is required?**

The I.G. argues that he must exclude you, because your conviction related to neglect or abuse of patients in connection with the delivery of a health care item or service.

Do you disagree with the I.G.'s argument? \_\_\_\_\_ Yes \_\_\_\_\_ No

If you **disagree**, explain why you disagree. State which exhibits support your argument and explain why they do.

**III. Is the length of your exclusion unreasonable?** The I.G. argues that there is evidence relating to certain aggravating factors which he says supports the length of the exclusion.

**A. Do you disagree with the I.G.'s identification of aggravating factors in your case?** \_\_\_\_\_ Yes \_\_\_\_\_ No

If you **disagree**, state which of the aggravating factors cited by the I.G. you believe are not present. Explain why you disagree. State which exhibits support your argument(s) and explain why they do.

**B. If you agree that there is/are an aggravating factor or factors present in your case but believe that the exclusion is nonetheless not justified by the presence of that factor or those factors, explain your reasons for your argument .** State which exhibits support your arguments and explain why they do.

**C. Do you believe that a mitigating factor or factors exist(s) that support(s) reducing the length of your exclusion (before answering this question, read the list of potentially mitigating factors that is set forth at 42 C.F.R. § 1001.102(c))?**

Yes  No

If you believe that a mitigating factor or factors exist(s), state what it is/they are and explain why the presence of the factor or factors should support reducing the length of your exclusion. State which exhibits support your argument(s) and explain why they do.



**V. Do you have any other arguments you wish to make?** If so, please state them here. State which exhibits support your argument(s) and explain why they do.

\_\_\_\_\_  
Petitioner or Petitioner's Representative

Date: \_\_\_\_\_