

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

Corina Maya Hollander,
(OI File No. H-11-43091-9),

Petitioner,

v.

The Inspector General.

Docket No. C-13-184

Decision No. CR2817

Date: June 10, 2013

DECISION

Petitioner, Corina Maya Hollander, was a podiatrist, practicing in Arizona, who wrote fraudulent prescriptions for narcotics and other drugs. She pled guilty in state court to four drug-related felonies. Pursuant to section 1128(a)(4) of the Social Security Act (Act), the Inspector General (I.G.) has excluded her from participating in Medicare, Medicaid, and all federal health care programs for a period of five years. Petitioner appeals the exclusion.

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

Background

In a letter dated September 28, 2012, the I.G. advised Petitioner Hollander that she was excluded from participation in Medicare, Medicaid, and all federal health care programs because she had been convicted of a felony offense related to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance. I.G. Ex. 1. Petitioner requested review.

The I.G. submitted its brief (I.G. Br.) and four exhibits (I.G. Exs. 1-4). Petitioner submitted a letter dated April 3, 2013 (P. Ltr.) with 14 unmarked documents attached. I will consider these documents P. Ex. 1, pages 1-14. In the absence of any objection, I admit into evidence I.G. Exs. 1-4 and P. Ex. 1.

I directed the parties to indicate in their briefs whether an in-person hearing would be necessary. Neither party asserts that an in-person hearing is necessary. I.G. Br. at 5; *see* P. Ltr.

Discussion

Because Petitioner was convicted of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance, she must be excluded from program participation for at least five years. Act §§ 1128(a)(4), (c)(3)(B).¹

Section 1128(a)(4) of the Act requires the Secretary of Health and Human Services to exclude from program participation any individual or entity convicted of a felony criminal offense “relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.”

Here, Petitioner concedes that she was convicted of a drug-related felony and is subject to exclusion. P. Ltr. at 1. As the evidence establishes, while practicing as a podiatrist, she was part of a scheme to obtain narcotics and other dangerous drugs by writing fraudulent prescriptions. I.G. Ex. 2 at 2-3. On March 14, 2011, she pled guilty to four felonies: 1) attempt to commit conspiracy; 2) attempted fraudulent schemes and artifices; 3) attempted trafficking in the identity of another person; and 4) acquisition of a narcotic drug by fraud. I.G. Ex. 2. She was sentenced to 33 months in jail followed by five years probation, and ordered to pay fines and restitution in excess of \$8,000. I.G. Ex. 3.

Petitioner asks that I reduce her period of exclusion. P. Ltr. at 2. I have no authority to do so. An exclusion brought under either section 1128(a)(4) must be for a minimum period of five years. Act § 1129(c)(3)(B); 42 C.F.R. § 1001.2007(a)(2).

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

