

United States Department of Health and Human Services

**DEPARTMENTAL APPEALS BOARD**

Civil Remedies Division

In the Case of:

\_\_\_\_\_

Petitioner,

- v. -

The Inspector General.

\_\_\_\_\_ )

Date:

Docket No. C-\_\_\_\_ - \_\_\_\_\_

**INFORMAL BRIEF OF PETITIONER**

The Inspector General (I.G.) argues that you may be excluded from participating in Medicare, Medicaid, and other federally-funded health care programs, because you were suspended, excluded, or otherwise sanctioned under a federal or State health care program as is described at section 1128(b)(5) of the Social Security Act. The length of the exclusion is for a period of time that is not less than the period during which you are suspended, excluded, or otherwise sanctioned plus at least \_\_\_\_\_ additional years.

The issues in this case are whether the I.G. is authorized to exclude you and whether the length of the exclusion is reasonable.

**I. Were you suspended, excluded, or otherwise sanctioned under a federal or State health care program under the circumstances that are described at section 1128(b)(5)?**

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

A. Do you agree that you were suspended, excluded, or otherwise sanctioned by a federal or a State health care program?

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

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

B. Do you agree that you were suspended, excluded, or otherwise sanctioned for reasons bearing on your professional competence, professional performance, or financial integrity?

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

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

**II. Is the length of your exclusion unreasonable?** The I.G. argues that the length of the exclusion imposed is reasonable. The I.G. argues that there is evidence relating to certain aggravating factors that 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 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. § 1001.501(b)(3))?**

\_\_\_\_\_ 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.

**III. Do you believe that an in-person hearing is necessary to decide your case?**

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

Do you have any testimony that you wish to offer at an in-person hearing?

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

If you have testimony that you wish to offer, provide the following:

1. The name of each witness whose testimony you want to offer.
  
  
  
  
  
  
  
  
  
  
  
  
2. A description of each witness' proposed testimony and an explanation of why you believe that the testimony relates to any of the arguments you want to offer in connection with items I and II.
  
  
  
  
  
  
  
  
  
  
  
  
3. An explanation of why the proposed testimony does not duplicate something that is already stated in an exhibit.

**IV. 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: \_\_\_\_\_