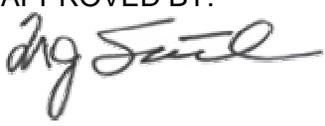




# DEPARTMENT OF MENTAL HEALTH POLICY/PROCEDURE

<b>SUBJECT</b> <b>EMPLOYEES ABILITY TO PROVIDE GOODS AND SERVICES UNDER FEDERALLY FUNDED HEALTH CARE PROGRAMS</b>	<b>POLICY NO.</b> <b>112.4</b>	<b>EFFECTIVE DATE</b> <b>11/01/04</b>	<b>PAGE</b> <b>1 of 5</b>
<b>APPROVED BY:</b>  Director	<b>SUPERSEDES</b> <b>202.14</b>	<b>ORIGINAL ISSUE DATE</b>	<b>DISTRIBUTION LEVEL(S)</b> <b>1</b>

## **PURPOSE**

- 1.1 To establish guidelines that prohibit the employment of any individual, in any capacity, whether clinical or non-clinical, who is excluded or suspended from any Federally funded health care programs.
- 1.2 To establish guidelines designed to avoid the imposition of civil monetary penalties and to ensure compliance with Federal and State regulations regarding employment of excluded individuals.

## **POLICY**

- 2.1 The Department of Mental Health (DMH) will not knowingly hire or continue to employ individuals who have been convicted recently of a criminal offense related to health care, or who are suspended, debarred, excluded, or otherwise ineligible to provide goods or services under any Federal health care program.
- 2.2 DMH will utilize government sanction reports, as described below in Sections 4.1 and 4.5, available via the Internet, to conduct screenings of:
  - 2.2.1 All individuals employed by DMH to verify continued eligibility to provide services under Federally funded health care programs. This screening will occur on an annual basis.
  - 2.2.2 All applicants for employment who are chosen for hiring, to verify eligibility to provide services under Federally funded health care programs, and
  - 2.2.3 All individuals requesting transfer from another County department into the Department of Mental Health, who are considered for transfer, to verify eligibility to provide services under Federally funded health care programs.
- 2.3 The DMH Human Resources Bureau (HRB) will obtain signatures of all new employees, upon hire and transfer, and all other employees on a yearly basis thereafter as part of the



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Performance Evaluation process, on the Statement of Ability to Provide Services Under Federally Funded Health Care Programs form (Attachment I) attesting that they have not been (a) convicted of a criminal offense related to health care or (b) excluded, debarred, or suspended, and have not committed an action that would lead to mandatory or permissive exclusion from participation under any Federally funded health care program.

- 2.4 Refusal to sign the Statement of Ability to Provide Services Under Federally Funded Health Care Programs will be cause for rejection of a request for employment and/or will be cause for termination of employment with the Department of Mental Health.
- 2.5 It is the responsibility of the employee to notify his/her Program Manager, in writing, immediately, should the employee, during the course of his/her employment, become suspended or excluded from providing services under any Federally funded health care program.
- 2.6 It is the responsibility of the employee to notify his/her Program Manager should the employee, during the course of his/her employment, become aware that another employee has become suspended, excluded, or debarred, or has been charged with a criminal offense related to health care.
- 2.7 The requirements of this policy may be waived, in appropriate circumstances, upon written approval by the Director of the Department of Mental Health.
- 2.8 This policy is not intended to replace any other DMH policies regarding criminal background checks; rather, it is intended to provide guidance that will enable DMH to comply with Federal and State laws.

### **DEFINITIONS**

- 3.1 Employees of DMH, for the purpose of this policy, refer to any full-time or part-time, temporary or permanent employee.
  - 3.1.1 Volunteer employees are generally exempt from the provisions of this policy unless the volunteers provide goods and services that are directly reimbursable through Federally funded health care programs. In that case, volunteers are subject to the same process of eligibility verification as are employees.
- 3.2 The term "Excluded" refers to a determination by a Federal or State agency that payment may not be made by a Federally funded health care program for items or services furnished, ordered



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or prescribed by excluded individuals, including administrative and management services not directly related to patient/client care, but that are a necessary component of providing services to Federal program beneficiaries. This determination continues to apply to an individual even if he/she changes from one health care profession to another while excluded. (Special Advisory Bulletin, Department of Health and Human Services, Office of the Inspector General (OIG), September 1999)

3.2.1 The grounds for mandatory exclusion of individuals are as follows:

- Conviction of program-related crimes.
- Convictions related to patient abuse.
- Felony conviction relating to health care fraud.
- Felony conviction related to controlled substance.

3.2.2 Additional information on both mandatory and permissive exclusions may be obtained by referencing United State Code, Title 42, 1320a-7.

3.2.3 An individual that is excluded remains excluded until such time as affirmative actions have been taken by the individual to be reinstated for participation in Federally funded health care programs. This applies regardless of whether or not the period of exclusion has been completed.

### **PROCEDURE**

4.1 The DMH-HRB, working in conjunction with the Chief Information Office Bureau (CIOB), will complete all required queries of the OIG List of Excluded Individuals and Entities (<http://oig.hhs.gov>). Queries will be conducted with the following frequency:

4.1.1 Annually for all current DMH employees,

4.1.2 Prior to commencing employment of any applicants,

4.1.3 Prior to accepting an individual currently employed by the County of Los Angeles in transfer to DMH.

4.1.3.1 An initial query of all employees will be conducted 30 days following implementation of this policy.



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- 4.2 Upon completion of the query, the results will be signed and dated by the DMH-CIOB individual completing the query and forwarded confidentially to designated staff in the DMH-HRB for review and placement in the appropriate file in HRB.
- 4.3 The DMH-HRB will obtain from each applicant for employment, prior to the commencement of employment, a signature of attestation of ability to provide goods and services under any Federally funded health care programs and acknowledgement of responsibility by the employee to report changes in status of their ability to provide goods and services under any Federally funded health care program.
  - 4.3.1 After obtaining the applicant's signature of attestation, the signature will be placed in the appropriate file in HRB.
- 4.4 The DMH-HRB will obtain attestation statements of eligibility to provide services and acknowledgement of responsibility by the employee to report changes in status of his/her ability to provide goods and services under Federally funded health care programs from all employees on a yearly basis as part of the Performance Evaluation process.
  - 4.4.1 After obtaining the employee's signature of attestation, the signature will be placed in the appropriate file in HRB.
- 4.5 If it is determined that an employee is excluded from Federal program participation, either through query results or by direct employee notification of management, the Program Manager, in conjunction with the responsible Deputy Director, will coordinate the employee's termination from Department of Mental Health employment in association with the Employee Relations Section of DMH-HRB.
  - 4.5.1 The employee or employees determined to be excluded from Federally funded health care programs will be notified of termination of employment from the Department of Mental Health in accordance with DMH Policy 605.1, Discipline.
  - 4.5.2 Program Managers, in consultation with the responsible Deputy Director, will carefully coordinate the transfer of duties associated with employees who have provided direct clinical services and have been determined subsequently to be ineligible to provide services under Federally funded programs.
    - 4.5.2.1 Executive Staff may, if appropriate to the cause of exclusion, permit a brief period of continued employment for an excluded employee to allow for appropriate transition of direct clinical responsibilities to avoid causing any undue harm to the client. If this is permitted, the Executive Staff, in



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association with the Program Manager, must ensure that no claims for clinical services are submitted for services provided by an excluded employee during the period of continued employment.

### **AUTHORITY**

California Welfare and Institutions Code, Section 14043.61  
 California Welfare and Institutions Code, Section 14123  
 United States Code, Title 42, 1320a-7  
 United States Code, Title 42, 1320a-7a  
 Social Security Act, Section 1128A  
 Code of Federal Regulations, Title 42, Sections 1001-1901  
 Special Advisory Bulletin, Department of Health and Human Services, Office of the Inspector General, September 1999  
 Department of Health and Human Services, Office of the Inspector General, Publication of the OIG's Compliance Program Guidance for Medicare+Choice Organizations Offering Coordinated Care Plans

### **ASSOCIATED POLICIES**

Civil Service Rule 18

### **ATTACHMENT**

Attachment I                      Statement of Ability to Provide Services Under Federally Funded Health Care Programs

### **REVIEW DATE**

This policy shall be reviewed two (2) years following the initial date of approval.