NPEC

NATIONAL PROVIDER ENROLLMENT CONFERENCE

61.5 Million Patients, **2.8 Million** Providers, **ONE** Mission

CMS

CENTERS FOR MEDICARE & MEDICAID SERVICES

August 28 - 29, 2024

Presented by

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Provider Enrollment & Oversight Group
Centers for Medicare & Medicaid Services

Enforcement Actions

Adverse Legal Actions

Required during:

- Initial enrollment
- Revalidation *(even if previously reported)*
- Within 30 days of the action

Applies to……

- Individual providers
- Individuals and organizations in section 5/6 (owners, managing employees, AO/DO)

Failure to report…

- **Deny application or revoke billing privileges**
  - Possible revocation back to the date of the action *(felony, sanction, exclusion or loss of licensure)*
- No longer required to report **Medicare Payment Suspensions** or **CMS-Imposed Medicare Revocations** *(April 2018)*

x **Felony conviction in last 10 years**
  - Crimes against persons
  - Financial crimes

x Misdemeanor conviction
  - Patient abuse or neglect
  - Theft, fraud, embezzlement

x **Sanction or exclusion** (ever)

x **License revocation or suspension** (ever)

x Accreditation revocation or suspension (ever)

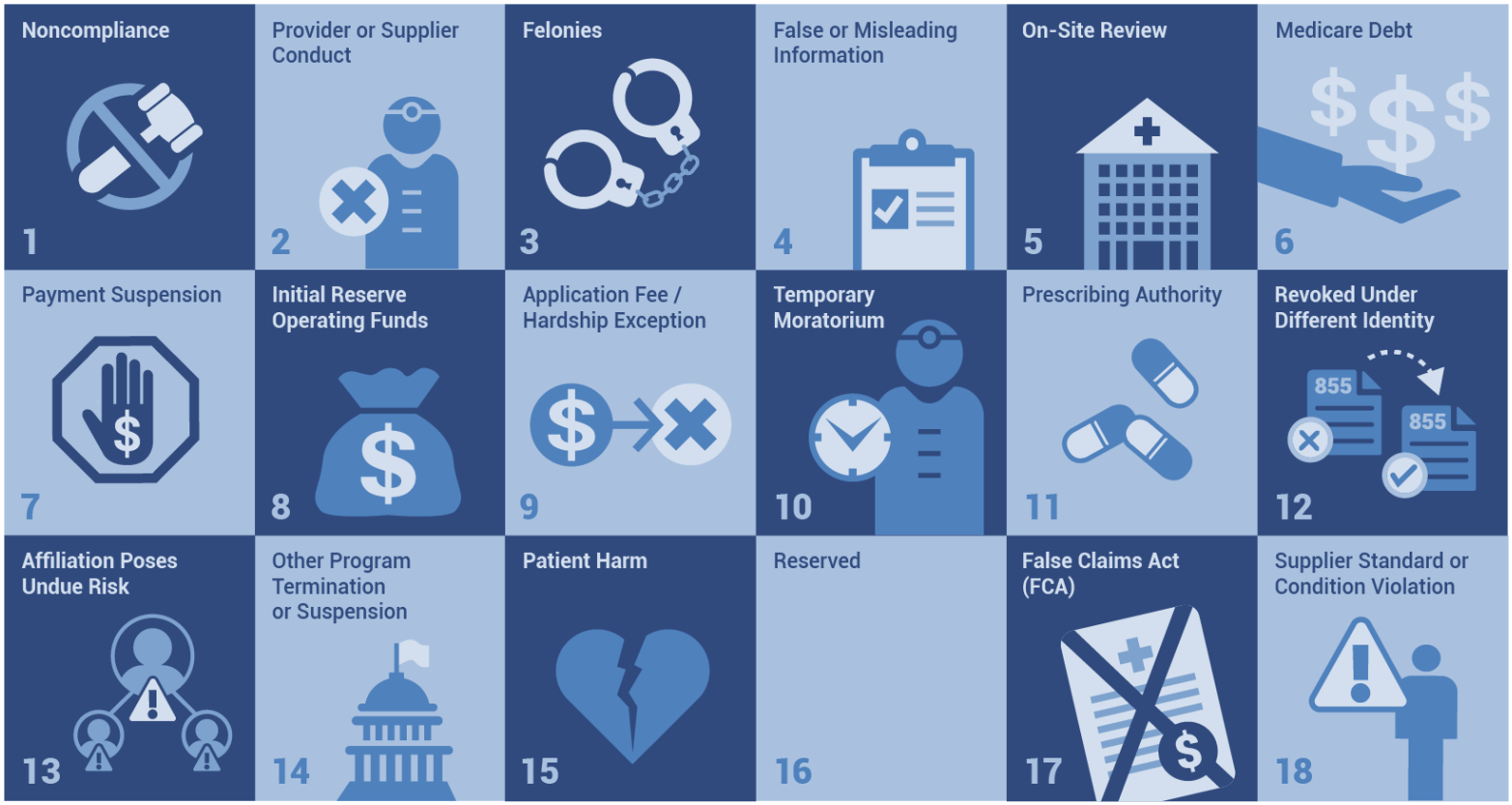
x Medicaid exclusion, revocation or terminations (ever)

Reasons to Deny

CMS can deny Medicare enrollment for:

17 Reasons for Enrollment Denial

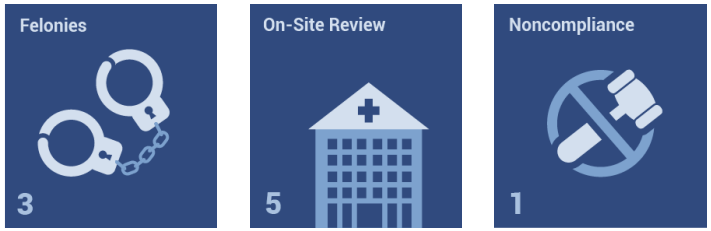
42 C.F.R. §424.530(a)



Reasons to Deny

Most Common Reasons:

- x Felony conviction within last ten years
- x On-site review, showing noncompliance
- x Noncompliance: program requirements



Newest Denial Reasons:

Effective January 1, 2024

- x False Claims Act Judgement
- x Supplier Standard Violation

Denials

Deactivations

CMS can deactivate Medicare billing privileges for:

8 Reasons for Enrollment Deactivation

42 C.F.R. §424.540(a)

Deactivations & Reactivations

Most Common Deactivation Reasons:

- x No claims submitted
- x Voluntary withdrawals

Newest Deactivation Reasons:

Effective January 1, 2022

- x Not compliant with enrollment requirements
- x Practice location is non-operational
- x Provider or supplier is deceased
- x Provider or supplier has voluntarily withdrawn from Medicare
- x The provider is the seller in an HHA change of ownership under § 424.550(b)(1)

Updated Deactivation Reason:

Effective January 1, 2024

- x Provider does not submit any Medicare claims for 6 consecutive calendar months.

Billing privileges were paused, but can be restored upon the submission of a new enrollment application with updated information*

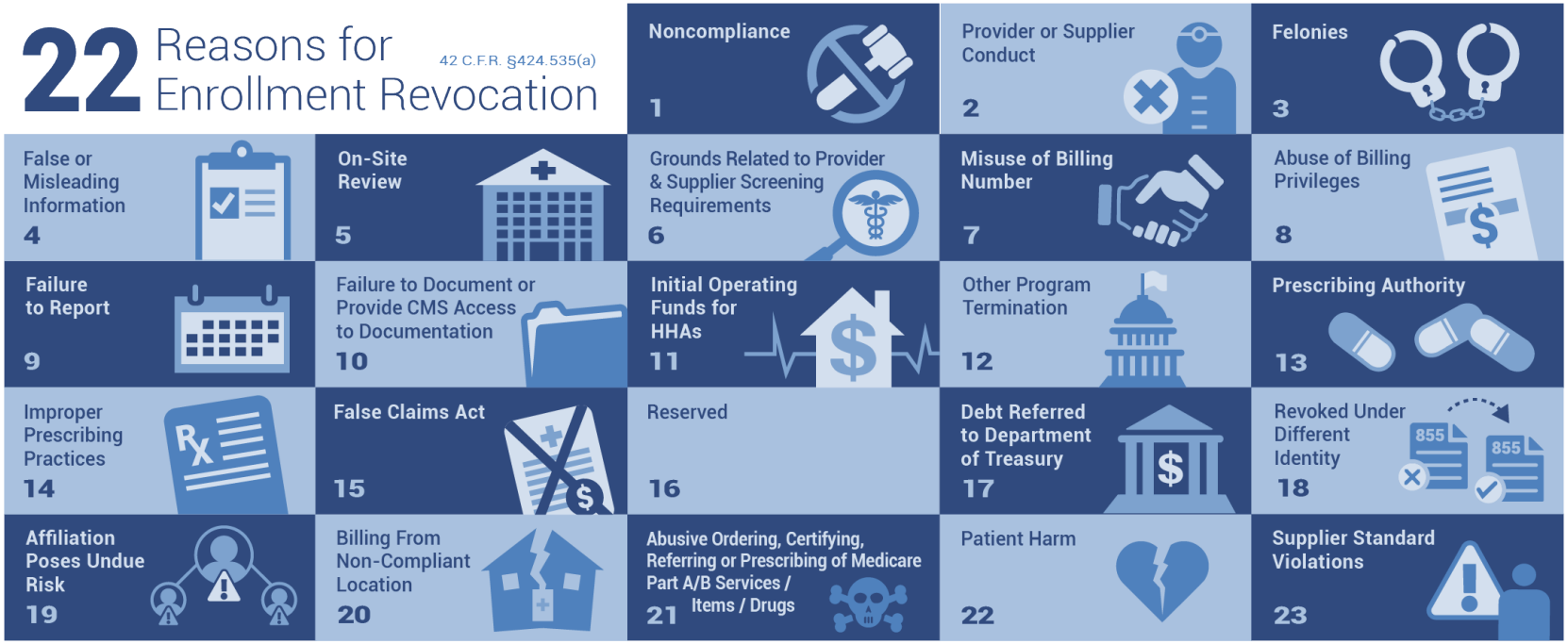
To reactivate Medicare billing privileges:

- ✓ **Must submit a complete CMS-855 application**
- ✓ **Effective date based on receipt date of the reactivation application**
- ✓ May submit a rebuttal to overturn deactivation
- ✓ Does not require a new state survey for certified providers (exception for HHAs)

Deactivations

Reasons to Revoke

CMS can revoke Medicare billing privileges for:



Reasons to Revoke

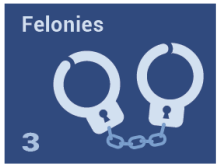
Most Common Reasons

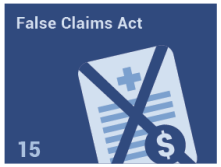
- x 424.535(A)(1) Noncompliance
- x 424.535(A)(9) Failure To Report
- x 424.535(A)(3) Felonies

Newest Revocation Reasons

Effective January 1, 2024

- x False Claims Act Judgments
- x Supplier Standard Violations





Revocations

Re-enrollment Bar

Revoked providers or suppliers are barred from participating in the Medicare program from the date of the revocation until the end of the re-enrollment bar.

Re-enrollment bar lasts 1 – 10 years*

- *However,* CMS may add up to 3 more years to the provider or supplier's reenrollment bar if the provider or supplier is attempting to circumvent its existing reenrollment bar by enrolling in Medicare under a different name, numerical identifier or business identity.

Re-enrollment bar

1–10 Years*

**CMS may impose a reenrollment bar of up to 20 years if the provider or supplier is being revoked from Medicare for the second time.*

Protecting Medicare Part C & D

CMS-4182F
started JAN 2019

Replaces the Medicare Advantage (MA) and Prescriber enrollment requirements and creates a Preclusion list

Preclusion List

- Applies to individuals/entities
- Currently revoked and under an active re-enrollment bar,
- Could have revoked if enrolled in Medicare; or
- Convicted of a felony within last ten years under federal/state law; and
- Conduct that led to the revocation or felony is considered detrimental to the Medicare program

Part C & D Preclusion List

What happens if I'm on the Preclusion List?

You will receive a letter from CMS in advance of your inclusion on the Preclusion List

The letter will be sent to your PECOS (enrolled) or NPPES (unenrolled) mailing address

The letter will include the effective date of your preclusion and your applicable appeal rights

Part C & D Preclusion List

Medicare Advantage (Part C)

- MA plans will deny payment for a health care item or service if the individual/entity is on the Preclusion List

Prescriber (Part D)

- Pharmacy will deny prescriptions at point of sale if the provider is on the Preclusion List

Part C & D Preclusion List

Preclusion List resources at https://www.cms.gov/medicare/provider-enrollment-and-certification/preclusion-list

- Frequently Asked Questions (FAQs)
- Preclusion List Reference Guide
- Guidance to the Healthcare Plans
- Contact providerenrollment@cms.hhs.gov for questions

CMS Preclusion list

PRECLUDED ENTITIES

5,981

January 1, 2019 — September 30, 2023

Medicaid Terminations

- **If Medicare revokes "for-cause" then the states must terminate a provider from their program**
- **If one state terminates "for-cause" then all states must terminate a provider from their program**
- **If terminated from any state "for-cause", CMS has the discretion to revoke from Medicare**

SCENARIO #1

- A provider is terminated for cause from California Medicaid
- The provider wants to enroll in Oregon Medicaid

➢ Provider cannot enroll in Oregon's Medicaid program because he is prohibited from enrolling in another state's Medicaid program while actively terminated in California.

SCENARIO #2

- A provider is revoked for cause from Medicare
- The provider would like to enroll in New Mexico Medicaid

➢ When a provider is revoked for cause from Medicare in any jurisdiction, the provider is unable to enroll in any state Medicaid program. Provider would not be permitted to enroll in New Mexico's Medicaid program

SCENARIO #3

- A provider is terminated for cause from Arizona Medicaid
- The provider is also enrolled in Texas

➢ When a provider is terminated for-cause from a state Medicaid program, ALL other State Medicaid programs MUST also terminate the provider. Here Texas must terminate this provider. If the provider is also enrolled in Medicare, CMS has the discretion to revoke.

Medicaid Terminations

more than

2,500

Total Medicaid **TERMINATION** SUBMISSIONS

122

Total Medicaid **TERMINATION** SUBMISSIONS Resulting in Medicare **REVOCATION**

more than

1,000

Total Medicare **REVOCATION** FILE ENTRIES

***FY 2023**

Hospice Provisional Period of Enhanced Oversight

- CMS implemented a Provisional Period of Enhanced Oversight (PPEO) on newly enrolling hospices located in Arizona, California, Nevada, and Texas.
- We've received numerous reports of hospice fraud, waste, and abuse. The number of enrolled hospices has also increased significantly in these states, raising serious concerns about market oversaturation.
- The PPEO, which can last from 30 days to 1 year, may include medical review, such as prepayment review.
- For more information, see the MLN:
  - https://www.cms.gov/files/document/mln7867599-period-enhanced-oversight-new-hospices-arizona-california-nevada-texas.pdf

Authority: Section 1833(e) of the Social Security Act and 42 C.F.R. § 424.527

Provider Ownership Verification (POV)

- The POV contractor reviews and verifies the accuracy of provider/supplier reported ownership information through available sources, such as Secretary of State filings.
- If any ownership discrepancies are identified, the contact person reported on the enrollment record may receive a call from CMS or POV requesting that the ownership information be updated.
    - It is important that your enrollment information be current and up-to-date to ensure timely communication with CMS and its contractors.
- If the enrollment is not brought into compliance, administrative action may be taken.

Revocation Examples

- The following actual revocation case examples
- The names have been changed for confidentiality and perhaps most importantly..
- to protect me during the break :)

Dr. Ohnohedidnt (felony)

Background…

- Both the individual and clinic group practice applications were signed in Oct, 2023
- Dr. Ohnohedidnt was also the sole owner of the clinic group practice
- Both enrollments reported **no** adverse legal history

Dr. Ohnohedidnt (felony) cont..

- In June of 2024 the Advanced Provider Screening System at CMS detected a felony alert for Dr. Ohnohedidnt
- Dr. Ohnohedidnt was convicted of Conspiracy to Commit Illegal Remunerations in violation of 18 US Code § 371 on September 1, 2023.

Dr. Ohnohedidnt (felony) cont..

- Both Dr. Ohnohedidnt and his clinic group practice were revoked on June 4, 2024, pursuant to 42 CFR § 424.535(a)(3), 42 CFR § 424.535(a)(4), and 42 CFR § 424.535(a)(9) for a period of 10 years, effective September 1, 2023.
- All Medicare reimbursement paid to both Dr. Ohnohedidnt and his clinic group practice were deemed an overpayment since the revocation retros back to the date of the felony

Almostlegit DME (Abuse of Billing)

- Following an EFT change, Almostlegit DME began exhibiting a spike in billing for Urinary catheters, including billing for a total of $174 million in a single day.
- Analysis was conducted on a sample of these claims, and it was determined that these services were not actually rendered. Beneficiary interviews confirmed they never asked for or received the items billed.

Almostlegit DME (a)(8) cont...

- The provider was put on an emergency payment suspension.
- Almostlegit DME was revoked pursuant to **(a)(8)(ii)** for Abuse of Billing Privileges and is barred from re-enrollment into the Medicare program for a period of 10 years.

Mimic Health System Inc.

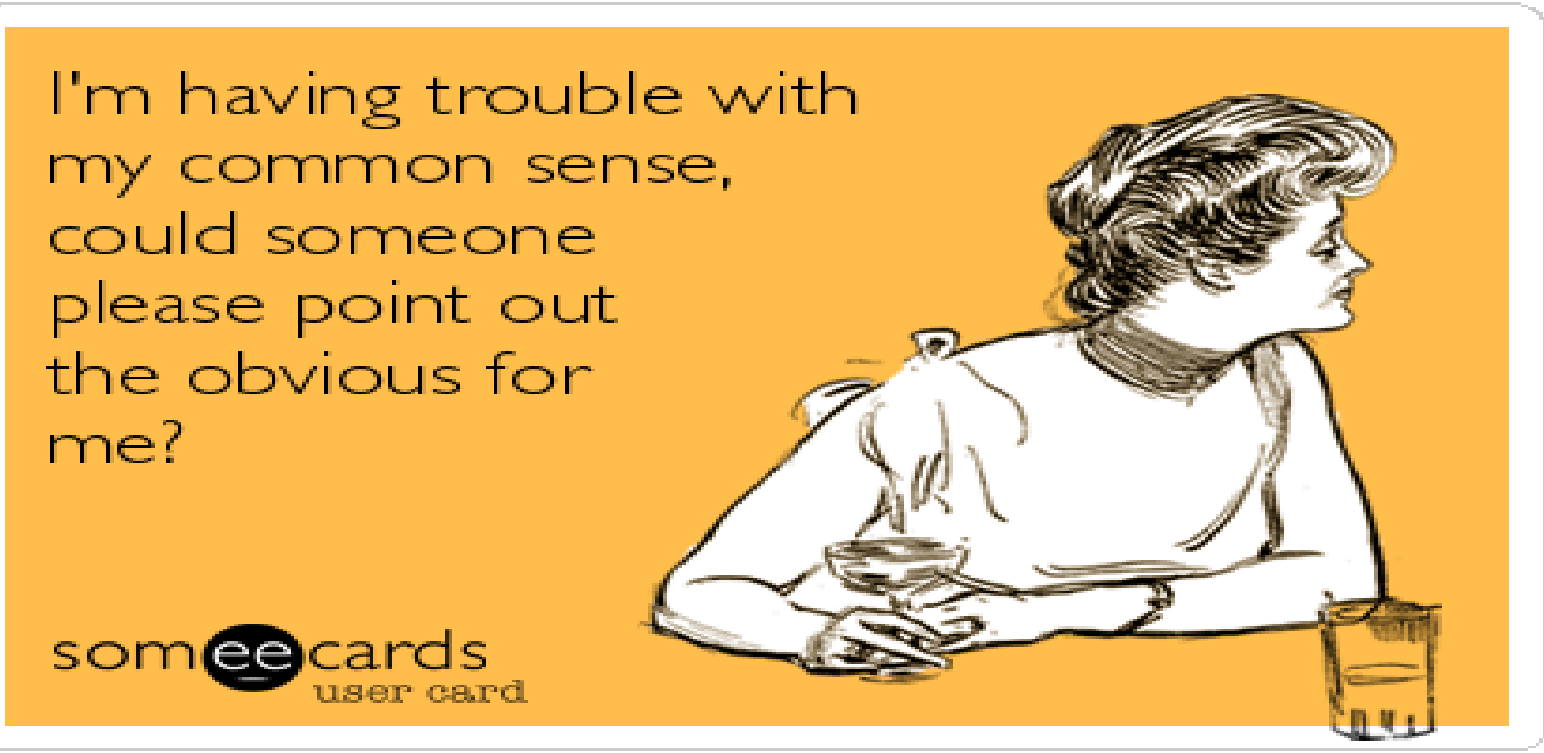
- Dr. Wasntme was revoked by CMS for (a)(4) False and Misleading on an application
- Dr. Wasntme failed to report on his 855 that he was a convicted felon
- On appeal Dr. Wasntme claimed he never submitted the 855 nor did he e-sign it and alleged that Mimic submitted the 855 without his knowledge or consent

Mimic Health System Inc. Cont...

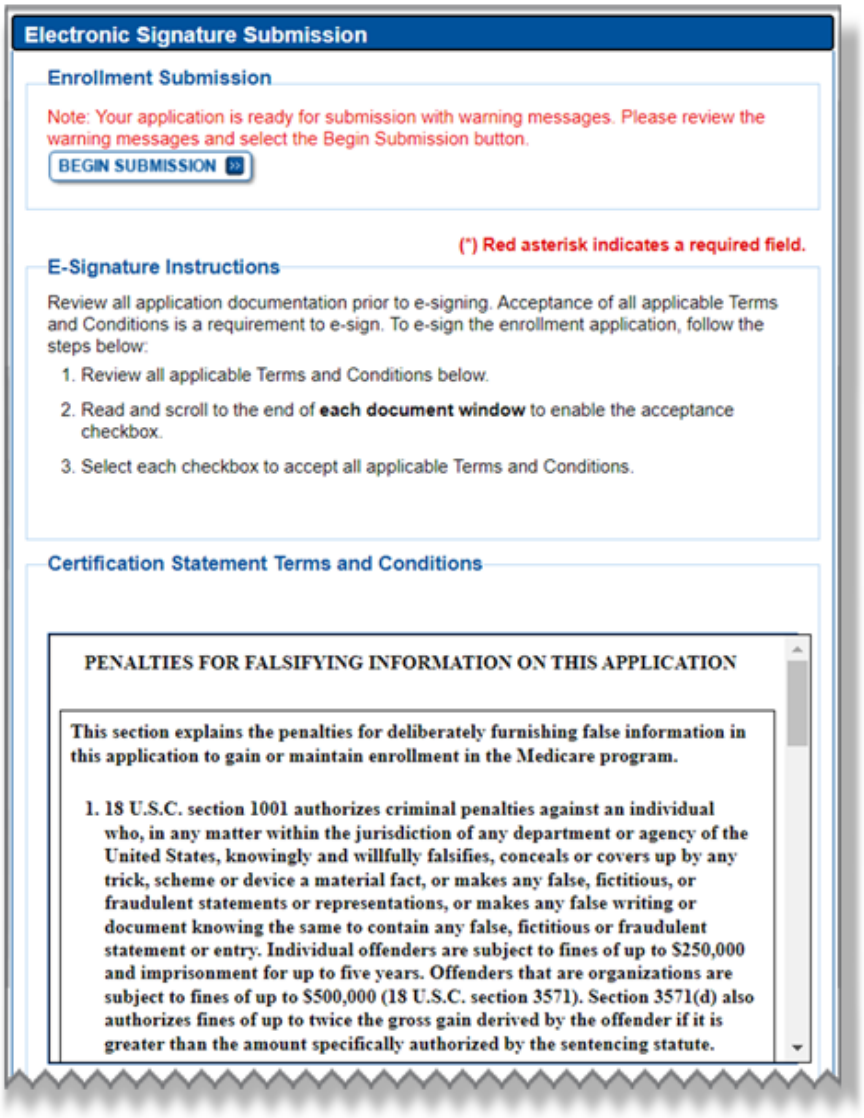
- During the appeal Mimic Health System testified that Dr. Wasntme was telling the truth
- Mimic testified that they collect all of their providers information including SSN, DOB and Drivers License and create their providers I&A accounts – not as a surrogate but as the provider himself

Mimic Health System Inc. Cont...

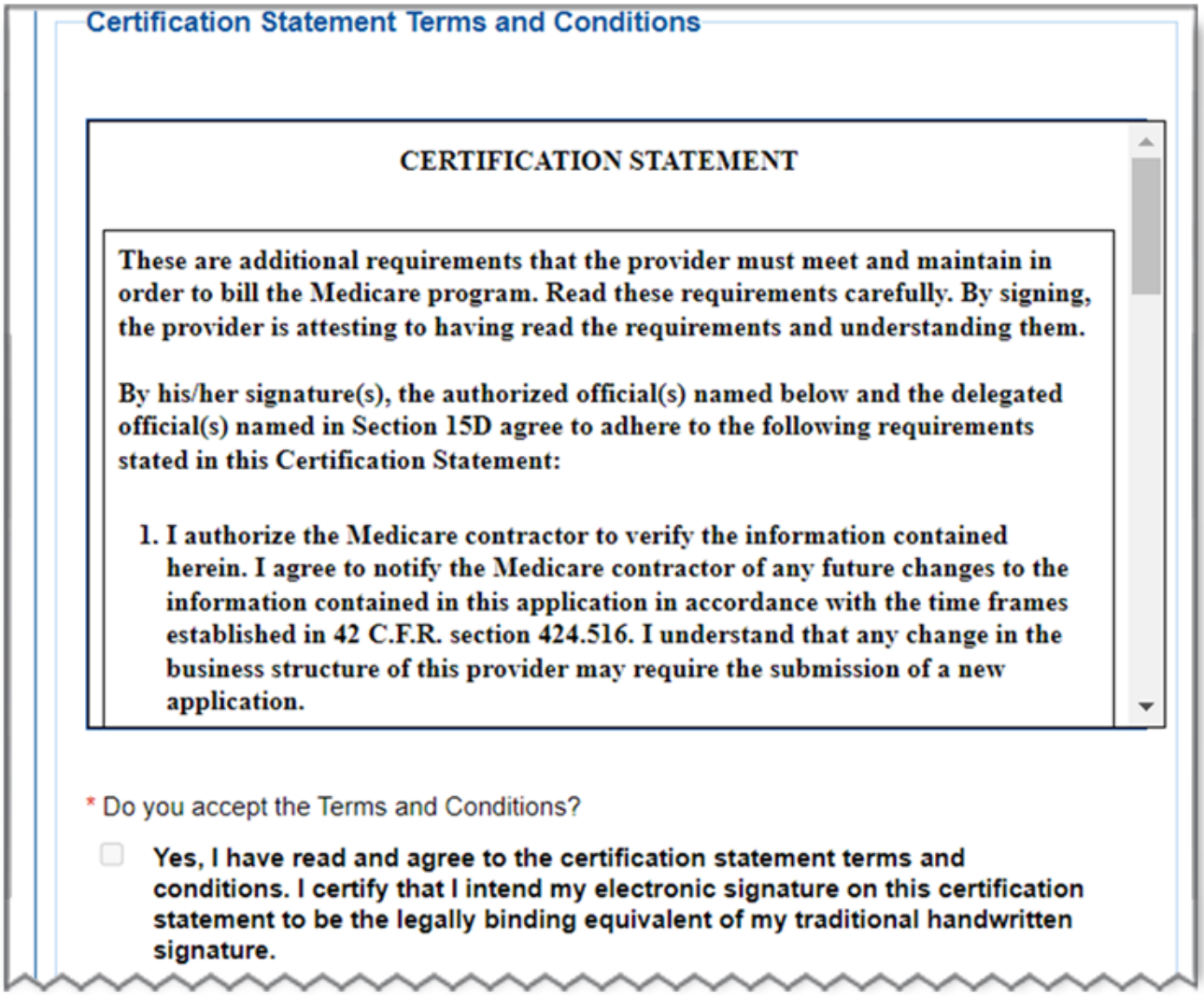
- Mimic also testified that their staff completed and e-signed the 855 on behalf of the provider by logging in as him...



Mimic Health System Inc. Cont...



Mimic Health System Inc. Cont...



Mimic Health System Inc. Cont...

- PENALTIES FOR FALSIFYING INFORMATION ON THIS APPLICATION

"18 U.S.C. section 1001 authorizes criminal penalties against an individual who, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry. Individual offenders are subject to fines of up to $250,000 and imprisonment for up to five years. Offenders that are organizations are subject to fines of up to $500,000 (18 U.S.C. section 3571). Section 3571(d) also authorizes fines of up to twice the gross gain derived by the offender if it is greater than the amount specifically authorized by the sentencing statute."

Mimic Health System Inc. Cont...

“Section 1128B(a)(1) of the Social Security Act authorizes criminal penalties against any individual who, "knowingly and willfully," makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a federal health care program. The offender is subject to fines of up to $25,000 and/or imprisonment for up to five years.”

Mimic Health System Inc. Cont...

"The Civil False Claims Act, 31 U.S.C. section 3729, imposes civil liability, in part, on any person who: with actual knowledge, deliberate ignorance or reckless disregard of truth or falsity (a) presents or causes to be presented to the United States Government or its contractor or agent a false or fraudulent claim for payment or approval; (b) uses or causes to be used a false record or statement material either to a false or fraudulent claim or to an obligation to pay the Government; (c) conceals or improperly avoids or decreases an obligation to pay or transmit money or property to the Government; or (d) conspires to violate any provision of the False Claims Act. The False Claims Act imposes a civil penalty of between $5,000 to $10,000 per violation, as adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act, 28 U.S.C. 2461, plus three times the amount of damages sustained by the Government."

Mimic Health System Inc. Cont...

"Section 1128A(a)(1) of the Social Security Act imposes civil liability, in part, on any person (including an organization, agency or other entity) that knowingly presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency...a claim...that the Secretary determines is for a medical or other item or service that the person knows or should know:

1. Was not provided as claimed; and/or
2. The claim is false or fraudulent.
3. This provision authorizes a civil monetary penalty of up to $10,000 for each item or service, an assessment of up to three times the amount claimed, and exclusion from participation in the Medicare program and State health care programs.'

Mimic Health System Inc. Cont...

"18 U.S.C. 1035 authorizes criminal penalties against individuals in any matter involving a health care benefit program who knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact; or makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false fictitious, or fraudulent statement or entry, in connection with the delivery of or payment for health care benefits, items or services. The individual shall be fined or imprisoned up to 5 years or both."

Mimic Health System Inc. Cont...

"18 U.S.C. 1347 authorizes criminal penalties against individuals who knowing and willfully execute, or attempt, to execute a scheme or artifice to defraud any health care benefit program, or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by or under the control of any, health care benefit program in connection with the delivery of or payment for health care benefits, items, or services. Individuals shall be fined or imprisoned up to 10 years or both. If the violation results in serious bodily injury, an individual will be fined or imprisoned up to 20 years, or both. If the violation results in death, the individual shall be fined or imprisoned for any term of years or for life, or both."

Mimic Health System Inc. Cont...

“The United States Government may assert common law claims such as "common law fraud," "money paid by mistake," and "unjust enrichment." Remedies include compensatory and punitive damages, restitution, and recovery of the amount of the unjust profit.”

What Should Have Happened…

- Mimic Health System should have set up a surrogate account in I&A – this would have allowed Mimic to fill out the 855 on the providers behalf

- After completing the application, Mimic should have notified the provider that the 855 is ready for review and e-signature

Question & Answer Session

Resources

cms.gov

- ordering and referring, DMEPOS accreditation, supplier standards
- MAC contacts: (search for Medicare enrollment contact")

cms.gov/Revalidation

- search all records online
- view and filter online spreadsheets
- export to Excel, or connect to with API

PECOS.cms.hhs.gov

account creation, videos, providers resources , FAQs

888-734-6433

PECOS Help Desk

ProviderEnrollment@cms.hhs.gov

Provider Enrollment contact

FFSProviderRelations@cms.hhs.gov

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articles on the latest changes to the Medicare Program and enrollment education products

Thank You

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