



DEPARTMENT OF HEALTH AND HUMAN SERVICES

**OFFICE OF INSPECTOR GENERAL**

WASHINGTON, DC 20201



February 3, 2017

Mohamed Basel Aswad, M.D.  
2104 Shelly drive  
Deming, NM 88030

Dear Mohamed Basel Aswad:

Re: OI File Number H-15-42738-9

On December 31, 2015, you were notified by the Office of Inspector General (OIG) that you were being excluded from participation in the Medicare, Medicaid, and all Federal health care programs for a minimum period of 13 years. That action was taken under section 1128(a)(1) of the Social Security Act (Act) and was based on your conviction in the United States District Court, District of New Mexico, of a criminal offense related to the delivery of an item or service under the Medicare or a State health care program. Your exclusion became effective January 20, 2016, and remains in effect.

By letter dated January 19, 2016, Nancy Smith-Leslie, Director, Medical Assistance Division, New Mexico Human Services Department, requested a waiver of your exclusion from Medicare, Medicaid and all Federal health care programs as defined in section 1128(h) of the Act. Since this request met the criteria set forth in 42 CFR 1001.1801(b), we granted this request with respect to the provision of oncology and oncology-related service within Luna County, New Mexico, and with respect to any resultant prescriptions or referrals for services, regardless of the location in which such prescriptions or referred services were provided, under the Medicare, Medicaid and all Federal health care programs.

By letter dated December 20, 2016, Nancy Smith-Leslie requested an amended waiver of exclusion, which would permit Dr. Aswad to provide services to Medicaid patients residing in Catron, Grant, Hidalgo, and Sierra counties, in addition to Luna County. In addition Ms. Smith-Leslie requested the expansion of the waiver to include treatment to hematology and internal medicine patients in addition to oncology patients.

After careful consideration of this request, and after consultation with the Centers for Medicare and Medicaid Services, this waiver modification request is granted with respect to Medicaid patients and denied, in part, with respect to Medicare patients. As such, the following are waived from exclusion:

1. For services rendered pursuant to New Mexico's **Medicaid** plan, Dr. Aswad may provide oncology and oncology-related services, hematology services, and related internal medicine services, to patients residing in Luna, Catron, Grant, Hidalgo, and Sierra counties.
2. For services rendered pursuant to **Medicare**, Dr. Aswad may provide oncology and oncology-related services, and hematology services, but not general internal medicine services, to patients residing in Luna, Catron, Grant, Hidalgo, and Sierra counties.

This waiver affects only the services specified above for as long as the State agency determines that such need exists. Your exclusion remains in effect for all items and services you furnish, order, or prescribe within all other programs in New Mexico and in all other States. This action does not otherwise change your current exclusion; it remains in effect and, as detailed in your exclusion notice, reinstatement is not automatic. You must apply for reinstatement at the end of your exclusion period in order to be considered for reinstatement.

Approval of the waiver request means that, effective with the date of this notice, you may submit claims for payment of covered items and services furnished, ordered, or prescribed by you as described above. This waiver is not retroactive and does not authorize you to claim program payment for items and services that you have already rendered subsequent to the date of your exclusion.

Should you wish to obtain a waiver of your exclusion for the purpose of providing services under programs other than Medicaid or Medicare, you will have to contact those programs directly. You may present a copy of this letter to the appropriate officials of those other programs to substantiate that you have been granted a waiver by the OIG for Medicare and Medicaid as specified above.

Your exclusion remains in effect until you have applied for and been granted reinstatement by the OIG. The waiver remains in effect as long as the State agency determines that a need for your services as a provider of oncology, hematology or internal medicine. Should the State agency determine that such need no longer your waiver will no longer apply to services you furnish, order, or prescribe.

Sincerely,

/Thomas J. Sowinski/

Thomas J. Sowinski  
Reviewing Official  
Health Care Program Exclusions

Cc: Nancy Smith-Leslie, Director  
Medical Assistance Division  
New Mexico Human Services Department  
P.O. Box 2348  
Santa Fe, NM 87504-2348