



DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL



February 18, 2016

Mohamed Basel Aswad, M.D.
2104 S. 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 (MAD), New Mexico Human Services Department (HSD), requested a waiver of your exclusion from Medicare, Medicaid and all Federal health care programs as defined in section 1128(h) of the Act. The request is based on the State agency's determination that you are the sole source of essential specialized services (oncological) in Southeastern New Mexico. Since this request meets the criteria set forth in 42 CFR 1001.1801(b) and section 1128(c)(3)(B) of the Act, we are granting the State agency's request for the waiver of your exclusion with respect to the provision of oncology and oncology-related services 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 are provided, under the Medicare, Medicaid and all Federal health care programs.

This waiver affects only the specified programs in the specified county in New Mexico 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 all other New Mexico counties, cities and/or towns, 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 to program beneficiaries in Luna County, New Mexico. **This waiver is not retroactive** and does not authorize you to claim program payment for items and services that you have already rendered to program beneficiaries in Luna County.

Should you wish to obtain a waiver of your exclusion for the purpose of participating in any Federal or State health care program outside of Luna County, New Mexico, 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, Medicaid and all Federal health care programs in Luna County, New Mexico.

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 exists in Luna County, New Mexico. Should the State agency determine that such need no longer exists or you cease to practice in this county, your waiver will no longer apply to services you furnish, order, or prescribe in Luna County, New Mexico.

Sincerely,



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