

United States Department of Health and Human Services

**DEPARTMENTAL APPEALS BOARD**

Civil Remedies Division

In the Case of:	)	
	)	
_____	)	Date:
	)	
Petitioner,	)	
	)	
- v.	)	Docket No. C- -
	)	
The Inspector General.	)	
	)	
_____	)	

**INFORMAL BRIEF OF PETITIONER**

The Inspector General (I.G.) argues that he is authorized to exclude you from participating in Medicare, Medicaid, and other federally-funded health care programs for at least three years, because you were convicted of one of the offenses that is described in section 1128(b)(1) of the Social Security Act.

The issues in this case are whether:

1. The I.G. has the authority to exclude you; and
2. The length of the exclusion that the I.G. determined to impose is reasonable.

**I. Were you convicted of a criminal offense?**

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

Do you agree that you were convicted of a criminal offense?

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

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

## **II. Were you convicted of an offense for which exclusion is authorized?**

The I.G. argues that your exclusion is authorized, because you were convicted of one of the following offenses:

A. A misdemeanor occurring after August 21, 1996, relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct –

(i) in connection with the delivery of a health care item or service, or

(ii) with respect to any act or omission in a health care program, other than Medicare or a State health care program (a State Medicaid program), operated by, or financed in whole or in part by, any federal, State, or local government agency; or

B. A criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by, or financed in whole or in part by, any federal, State, or local government agency.

Do you disagree with the I.G.'s argument?

\_\_\_\_ Yes    \_\_\_\_ No

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

**III. Is the length of your exclusion unreasonable?** The I.G. argues that the length of the exclusion that he determined to impose is reasonable.

**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. § 1001.201(b)(3))?**

\_\_\_\_ Yes    \_\_\_\_ No

If you believe that a mitigating factor or factors exist(s), state what 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.

**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: \_\_\_\_\_